

libr. Will. Hallib. emp. & d. 1533 plm
and boy
Natura Breuum in
Englishe newly corrected:
with diuers additions of sta-
tutes, Booke cases, Plees
in Abatement of the sayed
Writs, and their Decla-
rations, and Barres to
the same added and
put in their places
most conuenient.
(* * *)

libr. Will. Hallib.

libr. Will. Hallib.

240

Cum Priuilegio ad im-
primendum solum.

(. . .)

Rec. July 2, 1891

A Ryde of right patente wyllyng in the lordis court of my lordis
mabotys wyllyng in the lordis court wyllyng in the lordis court of my lordis
tunis bate. A writ of Right. fo. 2



It is sayd that there is a
Writ of Right patent, and a
writ of right close. A writ of
Righte patent shall bee first
brought in the Court of the
Lord, of whom y^e land is hol-
den (if it be holden of anie other then y^e king)
And if it be holden of the king, then it shalbe
brought in the court of the king. And know
ye, that this writ may be remoued out of
the Court of the Lord into a County by a
Tolt, and out of the Countie to the common
Bank by a Pone, if the demandant that will.
And for that, this clause is put in the Writ
of Right patent, & nisi feceris, vicecomes talis
comitatus faciet &c. For the writ shall bee all
times in the custodie of the deinaundant, for
that, that if the lord & the shirife wil not to
him do right, he may remoue the plee into the
common Bank, as is aforesaid, not puttynge
cause in the Pone. But in case that it be re-
moued out of the countie into the common
Bank by a Pone at the suit of the tenant, it
behoueth to put the cause in the Pone, as it
appeareth plainly in the Register. And also
the said plee may be remoued out of y^e Court
of the Lord immediatly to the common bank
by a Recordare wth cause, at the suit of y^e tenant.
And know ye, that this writ hath cut y^e is-
sues, that is to say, ioyning the mises vpon
the mere, & that is, to put him selfe in y^e great
assise of our soueraigne Lord the king, or to
joyne batail, and that shall be in the election

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the tenant. And for that it behoueth that the demaundant haue al times his champion ready, or els he may be deceipted. And when ba-
tail shalbe ioyned, & when great Assise, look
in the Treatise of the great assise to be cho-
sen, amonge other statuts. And it is sayed,
that a deed of the auncstor with a warranty
is a barre, if the demandant bring this writ
of his owne possession, and not of the posse-
sion of his auncstor, for that that he may not
ioyn the issue, as aforesaid. And the iudgmet
of this writ is final. And know ye, that it
is no plee in this writ, to say that the tenant
before this time recovered against the dema-
dant by action tried in any other writ, then
in a writ of Right.

Know ye, that if the ple be remoued by a
Pone out of the countie into the commō bank
is is not necessarie that the Shirife retourne
the Tolt, by which the ple is remoued out of
the Court of the Lord into the countye, for
that, that the ple is come into the bank by a
warrant, which came to the Shirife from
thence which is more heigher then the Tolt
is. C. 20. E. 3.

Know ye that a recoverie in a Cessauit a-
gainst the demaundants selfe, is a good barre
in a writ of Right. And that is by reason of
the Statute of Glo.ca. 3. M. 31. E. 1.

But know ye that a recoverie in Assise
against him selfe is no barre. M. 8. E. 2.

And know ye, that these persons shall
ioyne the mise in a writ of Right: An infant
shall ioyne the mise and trye it by battaile.

And

And þ tenant for terme of life shal ioyn in this forme, that is to say, that hee hath better right to hold for terme of his life, the reuersion to one such. M. 9. E. 4.

The husband and the wife shall ioyn the issue as in the right of the wife, & the iudgement shalbe that the husband & the wife and the heires of the wife shal hold quit of the demandant & of his heires. M. 31. E. 3.

A Prebendarier shall ioyne the mise by his attourney. C. 14. E. 3.

The husband and the wife were receiued for default of the tenant for terme of life, and they ioyned the mise in such forme, that is to say, that the tenant for terme of life hath better right to hold in the right of the husband by a grant made by the husband and his wife by fine, sauinge the reuersion to them, then the demandant hath &c. P. 13. E. 2.

And if a w^rit of Right be brought against fower, euery one of them ioyne the mise. M. 22. E. 3.

And if a parson ioyne the mise without praiyng in ayd of the Patron and the Ordinarie, & after make default, whereby the demandant doth recover, his successor shall haue for þ default one Iuris vrum &c. P. 8. E. 2.

And know ye, that the parties after the battail ioyned shall finde suretie for theyr chāpions, that is to say, þ pledges for euerie one of them, but first the tenant shall finde suretie: but these champions shall not be demanded vpon their sureties found, as if they were let to mainprise: therefore enquire the

diuerſtie.

And know ye, that it is a good challeng to say that the champion is a villein. I. H. 6.

And know ye, that these champions shaſe appareled with white leather, and a coate of red Hendar, painted with the Armes of his master, if he haue Armes, & a Knight shall beare his ſtaffe, & a cυſtelle his target, which ſhal be of the colour of his coate. And if the champion be at the barre his target ſhall be reared to the backe of the champion, ſo that the chiefe part of the target paſſe the hieſt of his head, and it ſhall be holden to the backe of the champion as longe as he ſtandeth at the barre: and then the Justices ſhall charg the parties principally to ſuffer þ harnes of their champions to be ſafely kept in a place. And these Justices ſhal looke that there be no manner of fraud, nor diſceit entended. And if deſault be found in þ harnes, as rolles of pray-ers or ſaints, or other thinges like, it ſhall be amended. And þ targets ſhal be of one length & breadth: and alſo their ſtaues ſhall be of one length, that is to ſay, fife quarters, and theſe two ſhal be put out of their harnes. H 29 E 3

The writ is ſuch.

HEnricus octauus dei gratia, Angliae, Franciae & Hiberniae Rex, fidei defensor, & in terra Anglicanae ecclesiae & Hiberniae ſupremum caput: balliuiſſuis de A. ſalutem. Precipimus vob' quod ſine dilatatione plenum rectum teneatis I. de B. de vno meſuagio cum pertinentibus in D. quod clamat te- nere de nobis per liberum ſeruitium ynius denarij per annum pro omni ſeruitio, quod w. R. ei defor- ceat

ceat. Et nisi feceritis, vicecomes Southfæc', ne amplius inde clamorem audiamus pro defectu recti. Teste meipso apud west. &c.

A writ of Right in London is such.

REx &c. Maiori & vic' Londoñ salutem. Præcimus vobis quod sine dilatione plenum rectum teneatis A. de yna shopia cum pertinentibus in London, quam clamat tenere de nobis p liberum seruium vnius denarij per annum quam w. C. ei deforceat. Ne amplius inde clamorem audiamus pro defectu recti. Teste &c.

A Writ of right in London (which is directed to the Maior & to the shirif of þ same City) shal be open & not close, for that, that it is alswel directed to the Maior as to the shiriffes. And for that, there shal not be said & nisi feceritis, vic' Southfæc' &c. for the plez shal not be remoued from thence, but in case the tenant bouch a fozeine to warrantie in the said Cittie, then the said Maior and the shiriffes shall adiourne these parties before the Justices of the common Banke at a certeine day, & shall send the Record (which is before them) to the said Justices. And when they haue determined the warranty, they shal resend the said record by a writ of Judgmet & commaund the said Maior and Shiriffes that they shall proceed to the plez in the said citie: for the Justices haue no power to proceed after the warranty determined. And the Maior & shiriffes haue no power to make proces against the fozein which is bouched, as it appeareth by the statute of Gloc. chap.

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xxij, which beginneth: Purview est ensement que
si home soit impled &c. & know ye, that where
the kinge hath graunted franchises to the
citie of London, or to any other towne, that
they shall not be impled of lands or tene-
ments within their franchises, ne of any o-
ther thing out of the same frachise, they may
haue a bill which is called Freshforce in the
nature of Assise of Nouel disseisin, Mortd, or In-
trusion. But it behoueth that it bee brought
within xl. dayes after title growen, & if not
then it behoueth that the said C itizens haue
other swrits out of the Chauncerie into the
Hustinges of London, & if a foizerer bringe
Assise or other swrit of tenements in London,
or in other towne franchised retournable be-
fore the Justices, Then the baillif of þ franchise
may come and demaund knowledg of
the plee by a swrit of the Kinge, and they shal
geue a certeine day in the franchise, and then
are they of the franchise as Justices of the
King. But all maner of plees personalls, as
Det, Trespas or Couenants, may be pieded
in their franchises by plaint, without bring-
ing any swrit at the common law: there they
may demand their knowledg and franchise,
vt supra: But know ye, that if the franchise
be not demaunded in time, that is to say, if
proces be sued vnto the Exigent, þ franchise
shall not be allowed, for that, that in such
case the franchise may not make right accor-
ding to the proces awarded in the Court of
the king. And also in a Quare impedit, though
the franchise be challenged, it is not allow-
able

able, for that that the execution of that may not be awarded in the franchise. And also in pleye of land, if the tenant make default, then the Steward, or the bailifs of the franchise, at the grand Cape returnable shal not haue knowledge for that that he may not geue iudgement vpon the default recorded in the court of the king. As appeareth Hillary 40. E. 3 in the beginning.

It is to be knownen, that every w^rit which toucheth free hold in London ought to be directed to the Mayor & Shirifes of London. But all other w^rits which are at the cōmon law in the same citie ought to be directed to the Shirifes onely.

A writ of right of Dower.

REX A. salutem, Precipimus tibi, quod plenum recte tenetas D. quę fuit vxor C. de tertia parte vnius mesuagij cum pertinē in L. quam clām tenere de te, s. de domino in dotem per liberum seruicium tertie partis vnius denarij per annum pro omni seruic^r quod H. ei deforceat. Et nisi &c, ne amplius &c.

This w^rit of right of Dower lieth where a woman hath receiued part of her dower, and shē will demaund the remenant against the same tenant in the same towne, she shal be compelled to the foresaid w^rit, & the said w^rit shalbe directed to the heire or his gardein, if he be in ward. But if the heire be in so great pouertie that he hath no court, then it shal be directed to the chiefe Lord for default of the heire. And this w^rit is remouable,

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ble, if the Lord will not do right to the party as aforesaid in a writ of right patent. And where a woman is endowed and after is disseised, and the disseisor continueth long his possession, and after the woman putteth him out, and the disseisor doth recover by assise, the woman hath no recoverie, but by a writ of right of dower, as it is said. And know ye also, that if the woman hath recovered part of her dower, and part from her before forced, or if shee recover al her dower save a certeine parcell thereto belonging, in these two cases the woman shall be compelled to demaund it, by a writ of right of dower. And know ye that in every maner of bailiwick, or office, in which the husband of the wife hath fee, which Bailiwick or office the wife her selfe (or any other) in her name may sufficiently keepe, in all such offices or Bailiwick, she shal haue dower. But if it be the office of the Stewardship, or Marshallship of England, which two offices shee cannot by her selfe nor by deputie take vpon her, therefore shee shall not be endowed of them.

Know ye that a woman shall haue a writ of right of Dower of the halfe after the badge and custome (as in Kent) & other such places called Gauelkind. But if the woman commit fornication, or take a husband, shee is barred of all her dower. As it appeareth by the statute of Prerogatiua regis in the end Cap. xvj. But if shee will live without a husband shee shalbe endowed of the halfe of all the land.

Bnow

Know ye that a woman shall not haue dower of Estouers, that is to say, Housebote, and Heybote, belonging to the frechold of her husband. For that, that if her husband had been deforced of the profit, or his heire of two parts none of them shold haue a Precipe quod reddat. For if the wife shold haue a Precipe quod reddat the heire shold haue it also, so that euery of them shall haue as much as the husband had. And for that such profits may not be parted, as charcoles in the woodes of any other, The foster in fee, ne chamberlain. And if such profit descend to fve parceners, every one shall not haue such profit, but one parcener shall haue the wholie profit, & these other shall haue allowance. And so the wife shalbe allowed for her dower. M.2. E.2.

A writ of Dower, whereof shee hath nothing.

Ex vic' Midd' salutem, precipe A. quod iuste &c. reddat E. quæ fuit vxor C. rationabilem dorem suam, quæ eam contigit de libero tenemento, quod fuit prædicti C. quondam viri sui in N. vnde nihil habet ut dic'. Et vnde queritur quod prædictus A. ei deforceat nisi &c.

This writ of Dower vnde nihil habet, lyeth in many maners: that is to say, if a man marrie a woman generally speaking nothing of dower, then after the death of her husband, the wife may recover the third part of all such lands or tenements which were to the husband (during y marriage betwixt them) by this writ aforesaid.

But

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But if shee hath received part of her doower of one man, of those landes and tenements in one towne, if shee wil sue for the remnant which is behinde against the same tenant of those landes & tenements in the same towne. Then shee is put to her w^rit of right of Doower, and not to the foresaid w^rit. And the proces is graund Cape & petit Cape.

1. But know ye, that if a man be seised of four acres of land in one towne, and take a wife, and make a lease of one acre for terme of life of the lessee, and hath issue and dieth seised of these three acres, and his heire entreth: & endoweth his mother of these three acres, & after the tenant for terme of life dieth, and the issue entreth (as in his reversion) now the wife shall haue a w^rit of Doower Vnde nihil habet, of the acre which was leassed, and not a w^rit of right of Doower, for that that the heire was not tenant of the free hold of that acre when he endoweth his mother of these other three acres.

2. Another case is, when a man hath maried a woman, and shee is endowed at the church doore of certaine landes & tenements in a place especiall, in this case, though the husband haue more or lesse when he dieth they shal recover by the foresaid w^rit al those landes and tenementis which were to her assigned at the church doore in name of her doower. But if shee will, shee may refuse this assignment, & take her doower at the common law.

3. The third case is such, when the father graunteth to his sonne to endow his wife of all

all such lands & tenemēts that to him ought to descend by the same father , and after that the sonne dieth, the wife shal recouer þ third part of all the fathers land. But in this case some men say that if þ wife haue no writing of this endowmēt she shal recouer. A.40. E3

And note ye, that the wife shalbe endowed of lands & tenements which her husband had in fee simple , or fee taile . But in some case the wife shal be endowed where her husband was not seised, ne never in possession . As if my father die seised of certeine lands, & tene- ments in his demeane as of fee , and no man ent reth in the land, and I die , my wife shall be endowed , and that is in fauour of doower, and yet I was not seised of the land.

And know ye, that in these cases following the wife shall not be endowed of lands or tes- nements , in which her husband was seised in fee simple, or fee taile during the mariage.

As if land be geuen to him and to his 1rst wife , and to the heires of their two bodies begotten, in this case the second wife shal not be endowed. Or if the husband commit felo- nie, for the whiche he is attainted, though af- ter the said attainder he purchase his charter of pardon of al those lands whereof he was so seised before þ said attainder. But of lāds purchased by the husband after that he hath his charter of pardon , shoo shal haue doower. Or in case that my auncestre hold certaine land of the king in chiefe and die seised , if I enter into my heritage without proces of the law, & die seised before that I haue a charter

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of pardon of the king for my entrie, my wife
shall not be endowwed of the land. Looke in
Prerogatiua regis, Cap.xliij. ¶ in case the te-
nements be recovered against the husband by
action tried. ¶ by action against her hus-
band rightfully without duicit or collusion
pled, and iudgement of the Court. ¶ if
perpetuall deuorce be had betwene the hus-
band and his wife. Except it be because of
chastitie. ¶ if shre go away from her owne
husband with another man, and not reconciled
by her husband of her good will, without
cohercion of holy church. ¶ if her husband
be villaine. ¶ if her husband die within
the age of viij. yeres. ¶ if a man marrie his
niece. ¶ if her husband loose his land by
battaile or by great assise. ¶ if the husband
hane but estate for terme of life or for yeres.

Know ye that a woman shall not be endow-
wed of the goods of her husband, for the
husband may sell them or gue them at his
pleasure. ¶ .7. ¶ .8.

A woman shall not be endowwed of estouers
that is to saie, Housebote, Heybote, for that
that if the husband had beinc deforced of all,
or the heire of two parts, he shold not hane
had a Precipe quod reddit, as is before saide in
a wxit or right of dower. ¶ .2. ¶ .2.

In these cases before said, and in many
other more: he shall hau no dower, ne reco-
uerie by the said wxit.

And know ye, that by the statut of Mer-
ton, Cap. i. The wife shall recover damna-
ges in the said wxit: for the lands of which
her

her husband died seised . Except the tenant come into the court at the first day , and say that he is readie to yeld to her dower.

And know ye, that this w^rit shalbe min=teined against whom so euer be in possession of the lands and tenements which were to her husband after the espousels, in what maner so euer that he is in possession . But the wife shall not recover damages in these w^rits but for lands & tenements wherof her husband died seised.

And know ye, that in these cases following the wife shal be endowed of lands or tene=ments, in which her husband was seised in fee simple , or fee taile during the marriage. C. 2. H. 2.

Know ye, that a woman shall be endowed of a villainie in grosse, & the w^rit shalbe de Li=bero tenemento. C. 11. H. 4. H. 22. E. 4.

Know ye, that a woman shall be endowed of a rent charge.

In a w^rit of dower , the tenant said that her husband was neuer seised . And the de=mandant said that C. father of the husband of the demandant died seised, by force wherof those lands discended to her husband, and he died before any other stranger entreth. And so seised and of such estate &c. of this season in law the wife shalbe endowed.

The graundfather, father, and the sonne. The graundfather holdeth of the king , and dieth , the father being of full age , hauing a wife and dyeth , before that he sue licerie or entrie: his heire within age . The eschetour doth

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doth seale the sonne, & committeth the swerd
of the bodie & land to a stranger, in this case
the wife shalbe endowwed, and the wyt lieth
against the gardeine. But if the father had
entred, and died before luerie sued, the wife
shall not be endowwed. For the statute is
Nullum accrescat ei liberum tenementum. Prer-
gatiua regis. Capit. 13. M. 4. H. 7. & M.
38. E. 3.

Rent was graunted to a man in fee, and he
ooke a wife: and before the day of paiment
he died, and the wife brought a wyt of do-
wer, and the tenant said, that her husband
was not seised during the espousels. In this
case the demaundant may maintaine that her
husband was seased, and shewe the speciall
matter in the evidence, for shes shall not
hage the speciall matter by way of ples. T.
11. H. 4.

Tenant in the generall taile made a feof-
fement in fee, and tooke estate againe to him
and to his wife in the speciall taile and hath
issue and the wife dyeth, and after he tooke
another wife and he dieth. The second wife
shal recover her dower, for that that her hus-
band was seased of such estate &c. But shes
shall haue the auerment that her husband
continued his estate by force of the taile. M.
41. E. 3.

Know ye, that if I enfeoffe one vpon con-
dition that he shall enfeoffe another man be-
fore such a day, in this case though the same
day he make the feoffement, yet his wife
shalbe endowwed. T. 34. E. 3.

If lande be recovered in value against the husband because of a warranty made by his auncestre afore the maryage , yet the wyfe after his death shalbe endowed . For the husband myght haue alayened the land before that he was bouched , and then he shold not haue yelded in value . And by consequens the title of the wife is elder . For the title of him whiche boucheth , beginneth but the day of the boucher . C. 5. E. 3 .

If the heire after the death of hys father enter and take a wife , and after doth endowe his mother , his wife shalbe endowed of that part whereof that his mother was endowed before . For that , that he was seised of the same lande one time in fee . And if the Lord purchase the demeane , and after the mesne dyeth , & the wife recover her dower by writ shee shall not pay the third part of the rent . For by the purchase the rent was extingui- shed . And notwithstanding shee that recover her dower , yet he may not auow , for shee is not tenant . M. 25. E. 3 .

Lord , Mesne , and tenant are , the tenant holdeth of the mesne by a penie , & the mesne holdeth ouer by xx. d . the mesne releaseth to the tenant , all the right that he hath in the lande , and the tenant dyeth , his wife shalbe endowed of the land . And shee shalbe atten- dant to the heire of the third part of the peny and not of the thirde part of the xx. d . for shee shalbe endowed of the best possession of the husbande .

If I geue land afore the Statute , or at
W. i. this

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this day to a man in tale to hold of me by a
penie, and after his decease his heire to pay
to me xx. d. for euer, he dyeth his wife is en-
dowed of the land, shre shalbe attendant to
the heire of the third part of the xx. d. for it
is all one rent and of the same rent the land
is charged by condition in deede, and she may
not haue acquittance of the heire, for that
that the lande is charged by the deede of the
father of whose possesſiō she claimeth doower
¶. 22. E. 3.

¶. 22. E. 3.

In a writ of Doower brought against the
Gardeine, he alleageth that shre hath taken
away the infant which was in his warde, &
deinaund iudgement of doower afore restitu-
tion, and that was a good plee: & if shre make
not restitution of thinfant in like plite as he
was when he was taken away, she shall not
haue doower. ¶. 8. E. 3.

In a writ of doower the case was such. The
father and the sonne are, the father is seyed
of thre acres of lande, the father dyeth, these
thre acres descend to his sonne, the sonnete-
keth a wife, and endoweth his mother of one
acre in allowaunce of all her doower, thys
doower of olde time deserued is a good plee in
barre (if the wyfe of the sonne do bryng a
writ of doower of that acre against þ mother)
notwithstanding the endowment agaynst
common right. ¶. 9. E. 3.

In a writt of Doower brought against a
Gardeine, which saith that the wife with-
holdeth charters and munymentes concer-
ning the heritage of the infant that is in hys
warde,

warde, and if she would to him haue deliuered the charters, he was ready to yeide dower, and for that that the deliuerie of the charters belongeth not to the Gardein, she shal recover. So it is thought that this pleas lyeth not in the mouth of any man to plead, but onely in the mouth of the heire. M. 10.

C. 3.

A writ of Admeasurement of Dower.

*R*Ex Vicec' salutem, Questus est nobis VV. fil' & Thær' B. vel frater, vel consanguineus de B. quod A. quæfuit vxor C. plus habet in dotem de libero tenemento quod fuit prædict' C. quondam viri sui in N. quam habere debet, & ad ipsam pertinet habend'. Et ideo tibi præcipimus, quod iuste & sine dilatione admensurari fac' dotem illam, ita qd' prædicta A. non habeat pl' in dotē de hæreditate prædict' VV. quam habere debet, & ad ipsam pertinet habend' secundum rationabilem dotem & quod prædictus VV. habeat de dote illa id quod habere debet & ad ipsum pertinet habed', Ne amplius &c.

*T*his writ of Admeasurement of dower lyeth against the wife. And by the statute of west. 2. ca. 7. which beginneth, Custod' de cætero &c. it is geuen as wel for the gardein as for the heire, but the heire may not haue this writ before that he be of full age. And also he may haue a writ to remoue this writ out of the County into the common Banke.

And know yee, that proclamation shal bee made in this writ of Admeasurement, & other writs, as is contayned in the said statut, and therefore looke the statute. And know yee, that the wife of the tenaunt which holdeth

B.ij. of

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of the kinge in chiche , may not enter in her
dower , before that shē hath receyued her
dower by assignement of the kinge. And if
she marie without lycence of the king, shē
shall make fine. And when she hath her do-
wer assigned , she shal s̄weare that she shall
not marie without lycence of the king. And
if she marie without licence vt supra, then the
lands that she hath in dower shalbe taken in
the hand of the king for the trespass , vt patet
in Prærogatiua Regis cap.4. And she shall make
othe, as is aforesaid, and with that accordeth
Magna charta cap.7. which begynneth, Vidua
post mortem mariti sui &c.

Right warden
¶A writ of Right, de Rationabili parte.

REx A.de B.salut', Præcipimus tibi quod plenum
rectum reneas C.de B.de vno mesuagio cū per-
tinentijs in London, quod clamat esse rationabile
parte suā, quæ eum contingit de libero tenemento
quod fuit N.patri, matris,fratris , vel sororis sui vel
suæ , & tenere de se per liberum seruicium quarte
partis vnius denarij per annum pro omni seruic
quod G.ei deforceat , & nisi feceris &c. ne am-
plius &c.

This w̄rit of Right de Rationabili parte ly-
eth al times betwixt priuies of bloude, as
betwixt brothers, sisters, neewes, or neices,
and not betwixt straungers. And if it b̄e
brought betwixt straungers, the w̄rit shall
abate. And also it lyeth where myne aun-
cestour dyed not seised, ss if any man whych
hath many coheires make a lease for certain
lande, rent, or tenement, for terme of lyfe of
the

the lessor, or for terme of anothers lyfe, & dyeth before that the reuersion of the said lads be to him reuerted. And after that the lessor dyeth, or he for whose life the land was let, and one of these coheires (to whom the land ought to reuert) doth enter, and holdeth all the other coheires out, then they which are holden out, shall haue the said writ against that coheir that hath entred into the whole land.

And know ye, that this writ is a writte of Right patent, but it shall not bee tried by Battaille, or graunde Assise: And this writ lyeth not betwixt parents which claymeth by discent (after that it passeth the third degree) but it lyeth betwixt bretherne and susterne, where the one claimeth by charter, and the other by discent, for this writ is not ordeyned, but for to trie the priuicy of bloud. And the processe is a Hummons, and if he make default at the Hummons retournable, then the graunde Cape. But if hee come at the Hummons retournable, & after make default, then the petit cape shalbe awarded. But if the parties come and pleade to issue, then the processe is against the Inrie, Venire facias, Habeas corpora, and a distres vntill they come.

Also there are other writs, as of Escheate, Droit sur disclaimer, Mesne, Cessauit, Drot de gard, which are called writtes of Right, because that they are taken by reason of the Heygnorie, and not because of dissein to him, nor to their auncestors.

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of the kinge in chiche, may not enter in her dower, before that shē hath receyued her dower by assignement of the kinge. And if shē marie without lycence of the kinge, shē shall make fine. And when shē hath her dower assigned, shē shal sweare that shē shall not marie without lycence of the kinge. And if shē marie without licence vt supra, then the lands that shē hath in dower shalbe taken in the hand of the kinge for the trespass, vt patet in Prærogatiua Regis cap. 4. And shē shall make othe, as is aforesaid, and with that accordeth Magna charta cap. 7. Which begynneth, Vidua post mortem mariti sui &c.

Right warden
¶ A writ of Right, de Rationabili parte.

REx A.de B.salut', Precipimus tibi quod plenum rectum teneas C.de B.de vno mesuagio cū pertinentijs in London, quod clamat esse rationabile partē suā, quāc eum contingit de libero tenemento quod fuit N.patris, matris, fratis, vel sororis sui vel suæ, & tenere de se per liberum seruicium quartę partis vnius denarij per annum pro omni seruic' quod G. ei deforccat, & nisi feceris &c. ne amplius &c.

THIS W̄IT OF R̄IGHT DE RATIONABILI PARTE LYETH AL TIMES BETW̄IT PRIUIES OF BLOUDE, AS BETW̄IT BROTHERS, SISTERS, NEUEWES, OR NEECES, AND NOT BETW̄IT STRAUNGERS. AND IF IT BEE BROUGHT BETW̄IT STRAUNGERS, THE W̄IT SHALL ABATE. AND ALSO IT LYETH WHERE MYNE AUNCESTOUR DYED NOT SEISED, AS IF ANY MAN WHYCH HATH MANY COHEIRES MAKE A LEASE FOR CERTAIN LANDE, RENT, OR TENEMENT, FOR TERME OF LYFE OF THE

the lessor, or for terme of another's lyfe, & dyeth before that the reuersion of the said lads be to him reuerted. And after that the lessor dyeth, or he for whose lyfe the land was let, and one of these coheires (to whom the land ought to reuert) doth enter, and holdeth all the other coheires out, then they which are holden out, shall haue the said w^rit against that coheir that hath entred into the whole land.

And know ye, that this w^rit is a w^ritte of Right patent, but it shall not bee tried by Battaille, or graunde Assise: And this w^rit lyeth not betwixt parents which claymeth by discent (after that it passeth the third degré) but it lyeth betwixt bretherne and susterne, where the one claimeth by charter, and the other by discent, for this w^rit is not ordyned, but for to trie the priuyness of bloud. And the processe is a Hummons, and if he make default at the Hummons retournable, then the graunde Cape. But if hee come at the Hummons retournable, & after make defaunt, then the petit cape shalbe awarded. But if the parties come and pleade to issue, then the processe is against the Inrie, Venire facias, Habeas corpora, and a distres vntill they come.

Also there are other w^rites, as of Escheate, Droit sur disclaimer, Mesne, Cessauit, Drot de gard, which are called w^rittes of Right, because that they are taken by reason of the Heygnorie, and not because of disseisin to him, nor to their auncestoz.

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Item if a man hath issue ij. daughters by
dyuers women and dyeth, they enter & make
purparty betwixt them, if the one die with-
out heire general or especial, her part shall
escheate to the Lord, and shall not discende
to her sister of the halfe bloud, but if that si-
ster haue an vncle, the land shall discende to
the vncle, and if the vncle die without heire
of his bodie, the lande shall discende to the
other sister whiche was of the halfe bloud, &
econtra, Quare hoc. If a man haue issue two
sonnes by dyuers women & dieth, the elder
doth enter in the land, & dyeth without heire
of his bodie, the land shall discende to his vn-
cle. And if the vncle dye without heir of his
bodie, the lande shall discende to the yonger
brother as cousin and heire to him.

A writ of Right close.

REx &c. Balliuis suis de A. salutem, præcipimus
vobis quod sine dilatione, ac secundu[m] consuetu-
dinem manerij nostri de A. plenum rectum teneatis
B. de C. de uno mesuagio cum pertin[en]tia in L. quod ei
deforceat, ne amplius &c. Teste &c.

This writ of Right close (which is called
after the custome of the manor) shalbe at
all times brought in the Conrt of auncient
demesne. Also euery writ that is sued vpon
the custome of the manor, is called a writ of
Right close. And this writ lyeth alwayes
betwixt Shokemen, whiche are of auncient de-
mesne. And know ye, that a Shokeman is
properly such one that is free, and holdeth of
the king, or of any other Lord of auncient
demesne,

demesne, landes or tenements in bullenage, and hee is privileged in this maner, that no man ought to put him out of his land and tenements, as long as he is able to do his seruices which to his lands & tenements belongeth: no man may encrease the seruices of his tenant, nor constraine him to do mo seruices then hee hath done in time past, for that these Sokemen were gaynoris of the Lords lands in auncient demeane. And they ought not to be summoned nor trauelled in Juries nor Enquestes, but in the manors to whom they belong. But yet in pleas of Trespas, Det, & other personal actions, they are summoned as other people. And of these tenants in bullenage looke the first Statute of R. the 2.ca.6. And one Sokeman may not empiled another of lands & tenements within auncient demeane by another writ then this writ of Right close. And in thys writ the demaundant shal make his protestation in the court to sue his writ in the nature of what writ that hee will, as his case lyeth. And know ye, that this writ shall not be remoued but for a great cause, that is to say, when the court lacketh power, or for that, that he sayeth that his father was enfeoffed by our soueraigne Lord the king, and sayeth that he may not, ne ought not without the king make aunswere: Or he sayeth that he holdeth the tenements which are in demaund at the common law, by fine levied in the court of the king afore such Justices, & for that the ple may not be sued forth by this writ of W.ijij. Right

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right close in the court of auncient demeane
and many other causes are, whereby thys
writ may not be remoued by the Recordare,
at the suit of the tenaunt. Know ye that all
those landes or tenements which are in the
hand of the Lord of auncient demeane, are
frank fee and pleable at the common law.
And all these landes and tenements which
are in the handes of those tenants of auncient
demeane are pleable within auncient
demesne, and not in other places. And know
ye, that the demaundant in this writ may not
remoue the plee for cause, nor without cause,
for that that he may not haue a Telt to put
it into the Countie, nor remoue the plee out
of the countie into the common Bank. But
if hee complaine, that right to him is denied
or delayed in auncient demeane. And then he
shall haue a writ out of the Chauncery to
the Shirife of the same Countie, commaun-
dying him that he go in his proper person, ta-
king with him fower Knights of his coun-
tie, and go to the said Court of auncient de-
meane to see that right to him be done. The
demaundant also may haue other writs to
helpe hym, as it appeareth by the Register.
And also the tenant may haue a Supersedeas,
in case that he vouch a forrein to warraty in
the court of auncient demeane, and vpon that
one Attachment (if neede be.) And in case
that the said lands in auncient demeane be
sold by fine without licēce of their Lord, he
may haue a writ of the Chauncerie, for to
adnull the sayd fine (as it is said) or other
wayes,

wayes, hee may haue a w^rit of Disceit a= gainst his tenant that hath leuied the sayd fine, & recover his damages ut dicitur &c.

And note, whiche are good causes in thys w^rit to remoue one matter out of one particuler court into the kinges Court &c.

Know ye, that it is said in A^{ll}ise brought by the Abbot of E. &c. that it is good cause to remoue the ple^e, to say that the Bawlie is seruant of the plaintife. And it was laid if one ple^e be remoued out of the Court of one Lord for one cause, the cause is trauersable: but of one plaint out of the countie, other^e wise is. Quare the diversitie.

In A^{ll}ise of freshforce brought in auncient demesne, the tenaunt sued a Recordare to the shirife, for to remoue the ple^e, & the cause was that the Bawlie had a liuerp of the plaintife, and the plaint was of the freeholde. And it was holden that this cause was not sufficient, to put the court out of Jurisdicⁱtion, for the iudgement belongeth to the sutors, and not to the Bawlie, And not like to one Recordare, to remoue one ple^e into the Countie, and to shew that the Shirife hath a liuerie of the plaintife, there the ple^e shall not be demanded for that, that the one and the other are the Courtes of the king.
H. 12. H. 4.

¶ A writ of Right of Præcipe in Capite.

Ex Vic^e S. salutem, Præcipe A. quod iuste &c.
reddat B. vnum mesuagum cum pertinⁱ in C.
quod clamat esse ius & hereditatem suam, et tenere

de

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de nobis in capite, & vnde queritur quod prædictus A. ei iniustè deforceat, ut dic'. Et nisi fecerit, & prædictus B. fecerit te securum de clamore suo prof. tunc summōn &c. qd' fit coram Iusticiā &c. osten- surus quare non fec', & habeas &c.

This w̄rit of Right Preçipe in capite, lyeth for the tenant whiche holdeth of the kinge in chiefe, as of his crowne, whiche tenant is deforced, then he shall haue this w̄rit, & this w̄rit is close, and shalbe pleaded in the com- mon bank. For if any tenant whiche holdeth of any Lord be deforced, he ought to haue a w̄rit of right patent, whiche w̄rit shalbe de- termined in the court of the said Lord. And in the same maner, he that holdeth of þ king in chiefe as of his crowne (if he be deforced) he shall haue a Preçipe in capite. But by the graunde charter cap. 23. whiche begynneth. Breue quod vocatur Preçipe in Capite, wil, that this w̄rit shall not be graunted to any man whereby any free man may loose his court. But if any wil haue this w̄rit, he shal shewe by his faith that the tenement whiche is in de- maunde, is holden of the king in chiefe, as of his Crowne, and of none other. But if any man purchase the Preçipe in Capite by false suggestion mad in the court of the king, to defraude the chiefe Lord of his Court, then the chiefe lord shal haue a w̄rit to cal againe the plez, directed to the Justices, that they may enquire if the tenements bee holden of the king or of the chiefe Lord. And if it bee found, that the tenements are holden of the chiefe Lord, then the demandant if he will may

may bring his writ of Right patent in the court of the Lord.

And know ye, that if any man be essoined de Malo lecti in a writ of Right, then if the demaundant will prove that the tenaunt is not so sick, but that he may come well enough, and the Enquest finde against the said tenaunt, his essoine shall turne hym in one default. And also this essoine lyeth not but in a writ of Right, where two claymeth by one dissent. And that is ordeyned by the Statute of West. 2. cap. 17. which beginneth, In itinere Iusticiar. And vpon that the demaundant shall haue a writ out of the Chauncerie to enquyre, if the tenaunt bee sick or not. And also if the tenant hath demaunded lycence to ryse and to appeare in the Court, where the writ of right hangeth, and if to hym it bee denied, then he shall haue a writ (which is called) De licentia surgendi &c.

Also the Lord may recover his court by two other wavyes, that is to say, when the writ hangeth before the Justices, he may come before them and shew his case, how these tenements are holden of hym. And if the Justices see and finde hys suggestion true, the writte shall abate, vt patet Anno 6. E. 3.

Or if the demaundat recover by this writ, the Lord may after bring a writ of disseit against the demaundat & recover his damages against him. And after by petition, he shall recover

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recouer his seygniorie of the handes of the
king, vt patet.

¶ A writ of Monstrauerunt.

REx Abbatii de A. salutem, Monstrauerunt nobis homines de manerio de I. quod est de antiquo dominico Coronæ Angliæ, quod tu exigis ab eis alias consuetudines & alia seruitia quæ facere debent & antecessores sui tenentes de eodem manerio facere consueverunt, temporibus quibus manerium illud fuit in manibus progenitorum nostrorum quondam Regum Angliæ, vel in manu nostra. Et ideo tibi præcipimus, quod a præfati hominibus non exiges siue exigi permittas alias consuetudines & seruitia quam facere debet, & antecessores sui prædicti facere consueverunt temporibus prædictis. Et nisi ad mandatum nostrum hoc feceris A. Vicecomino nostro de N. id fieri præcipimus. Teste &c.

The writ which is called Monstrauerunt, ipeth for the tenants in auncient demeane which are distrayned for to make other seruices or customes, then they or their ancestours made in the tyme of Wylliam Conquerour whiche passeth the tyme of memorie.

And know ye, that this writ shal bee directed to the Lord which demaundeth other seruices or customes (as afore is said) hym commaunding, that he demaund none other seruices and customes, but such that hee and his ancestours hath done in auncient demeane tenure. And also they may haue a Monstrauerunt directed to the Shirife, hym commaunding that he shal not suffer the lord

to distraine the said tenants to do other seruyses and customes then they ought to do. And know ye, that if the tenant may not bee in quyet ne peace by this wrotte, they may haue one Attachment against the Lord, that he be before the Justices of our Soueraigne Lord the king at a certeine day &c. And the names of all the tenaunts shalbe put in the wrot, and all the tenaunts together shall sue the said wrot, for if one tenant be distrayned to doe other seruices or customes (then he ought to do) that shalbe in preiudice of all the other tenaunts, whiche holdeth by lyke manner of seruices &c. When the Booke of Domesday was made, that is to say, in the tymie of Saint Edward the king, all the landes and tenementes whiche were in hys handes at such time that the booke of Domesday was made, are called Ancient demesn. But the landes and tenements whiche then were in other mens handes, are franke fee, and pledable at the common law. And the proces is a Prohibition, one Attachment, & one Distres &c.

Know ye, that in this wrot of Monstraunrunt, every one of them may declare seuerally, and so they may not in other wroits but in this wrot. And they may make one declaration (if they will.)

And in this wrot, the death of one of these plaintifys shall not abate the wrot, by the opinion of the Court. Notwithstandyng that all be not named, yet the wrot lyeth for those that wyll sue, by Babb. P. 36. E. 3.

And

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And in this w^rit they shal declare of every tenure, and that the Lord then distrayned for mo seruices. Or if he demaunde and distraigne not, yet the w^rit lyeth for them, and they shall put in certeine, for what thing hee doth distraigne them. But they ought not to alleage the day and place incerteine, no more then in a w^rit of Mesne, for a man shal haue a w^rit of Mesne though he were never distrayned. M. 18. E. 3.

And also it is conuenient, that the plaintif shew, that the manor is auncient demesnes. P. 39. E. 3. And know ye, þ this w^rit lieth not for such men that hold lande in auncient demeane, by court Rolle at the will of the Lord. P. 41. E. 3.

¶ A writ of Ne iniuste vexes:

REx A. salutem. Prohibemus tibi ne iniuste vexes vel vexari permitt' B. de libero tenemento suo, quod de te tenet in N. nec ab eo exigas vel exigi permittas consuetudines & seruitia quæ inde facere non debet nec solet, & nisi feceris vicec' N. id fieri faciet, ne amplius inde claim audiam⁹ pro defectu recti. Teste &c.

This w^rit of Ne iniuste vexes lyeth wher^e any Lord doth distraigne his free tenaunt, whiche holdeth of him by certain seruices and customes, to do mo seruices or customes then he or his euncestors was wont to do, then the tenant shal haue this w^rit, as is provyded in the Statute of Magna charta capit. 10. whiche beginneth, Nullus distringatur &c. And this w^rit is a prohibition whiche shalbee

dis-

dyrected to the chiefe Lord, commanudynge
hym that he distraine not his free tenant to
do any other seruyce nor custome then the
said tenaunt or his auncstor was wont to
do. And this w^rit is a w^rit of Right pa-
tent, for this clause shalbe put in the w^rit,
Et nisi fec^r Vice &c. And know ye, that thys
w^rit is all tymes auncestrel and shalbe de-
termyned by Battayle, or graunde Assise.
And the proces is, as in the Monstrauerunt,
that is to say, one Prohibition, one Attach-
ment, & Distres

Know ye, that in thys w^rit he shall not
declare when hee strained, but shall say
that he hath hym greued for mo seruyces
et. M. 40. E. 3.

A writ of Right, Quando Dominus remisit
Curiam suum domino Regi.

R Ex Vice^r Midd^r salutem. Præcipe A. quod iuste
&c. reddat B. vnum mesuagum cum pertinen^r
in F. quod clamat esse ius & haereditatem suam. Et
vnde queritur quod predictus A. ei iniuste defor-
ceat. Et nisi fecerit, et predictus B. fecerit te secu-
rum de clameo suo prof. tunc sum per bonos sum-
monit predictum A. quod sit coram Iusticiarijs &c.
ostensurus quare non fecerit. Et habeas ibi summ^r,
& hoc breue. Teste. Quia capitalis dominus nobis
inde remisit curiam suam.

This w^rit of Right, Quia dominus remisit
curiam suā domino Regi, lieth in case where
lands or tenements (which are in the seig-
niorie of any Lord) are in demaund by a
w^rit of right, & if the Lord hold no court, or
other-

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otherwise, at the prayer of the demaundant, or the tenant shall send to the court of the king, his writ, to put to the king his court for that tyme: Having to him another tyme the right of his seigniorie. And this writ shalbe returned before the Justices of the common banke and shalve close. And these causes shalbe put in the writt in the ende post Teste me ipso &c. Quia capitalis Dominus feodi illius inde remittit nobis curiam suam &c. And the proces is, **H**umons, grand cape & petit cape.

A writ of execution of judgement.

Rex Vicec' Midd' salutem. Præcipimus tibi, quod execuc' iudicij nuper reddit' in Com' tuo de loquela quæ fuit in comitatu tuo per breue nostrum de Recto, inter A. petentem & B. tenentem, de uno mesuagio cum pertin' in L. fine dilatione fieri facias. **T**his writ de Executione iudicij lyeth where any plee is pleaded vnto iudgement, and the Shirife (if the plee be in the countie) or the Baillife (if he be in Court baron, or in hundred) in fauor of the tenant, or by other chaunce prolong or deserre the iudgement, then the demaundant shall haue thys writ. And this writ is one Justices. But if he make execution, then shal there go out a Sicut alias, with a clause (vel causam nobis significes) and after that one Pluries, then shall go out Attachment as in a Repl. And know ye, that this writ lyeth for the demaundant in a writ of right patet or close, as wel against the baillife (if the plee be in another court, as against the shirif if the plee be in the countie. And also in

in this w^rit lieth the proces of a contempt,
and may bee made in all other w^rits if neerde
be &c.

¶ A writ of False iudgement.

REX VIC' NORF. salutem. Si A fecerit te secūr de
clam suo pros. tunc in pleno com^m tuo recordari
fac' loqulam, que fuit in eodem com^m per breue nos-
trum de recto, inter ipsum A. petentem de vno me-
suagio cum pertinentijs in C. vnde idem A. queri-
tur falsum sibi factum fuisse iuditum in eod' com^m,
& record' illud habeas coram Iusticiarijs nostris a-
pud VVest. tali die sub sigillo tuo & sigillis iiii. le-
galium militum eiusd' com^m ex illis qui record' illi
interfuerint, & sum p bonos summ^m prædict^m B. quod
tunc sit ibi auditur record' illud. Et habeas ibi sum
nomina prædict^m quatuor militum, & hoc breue.
teste &c.

This w^rit De falso iudicio, lyeth where false
iudgement is geuen in Countye, hundred
or in Court Baron, then he (against whom
this is geuen) shal hane this w^ritte soz to
cause the record^e to bee brought before the
Justices of the bank, or in Eire. And know
ye, that this w^rit shal extend as wel to w^rits
of right which are pleadable in county, or in
court Baron, without w^rit. And know yee
that a w^rit of false iudgement lieth not in a-
use of freshe force, but a w^rit of erroz. And
know ye that the proces in this w^rit against
the party is a garnishment vpon his perill, &
against the shirif, or against those bailifes, if
they do not the commaundement of the king
by distresse &c.

Know ye vpon which iudgements a man
C.j. shal

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shal haue a false iudgemēt, if one Justices be directed to the shirke, to holde place notwithstanding þt be originall, yet he shal haue a writ of false iudgment &c. Trin 34. H. 6.

And in a writ of right, that the tenāt doth plede to thenquest, & at the venire fac þ tenāt is esloyned, & hath day ouer, & no proces is made against thenquest, ne cōtinued by þ rol, And also at the same day þ the tenāt hath by the escoine, he is escoined another time, & that is challenged, for that, þ this is þ second day after thenquest, notwithstanding that, þ escoine is allowed. And also after such discontynuāce, if the plaintif be nonsuit in þ writ of right, & iudgment final be geuen, in all these cases he shal haue a writ of false iudgement &c. H. 22. E. 3.

In a writt of right close brought in the court of the lord, the proces doth cōtinue vntil the demaundant do recover, the tenāt doth sue a writ of false iudgment, & sheweth þ the land is holden by the verge, in which case he ought to sue by bil, & it was awardeed that he shold take nothing by his writ of false iudgment, for that, þ if this iudgmēt be reuersed, that shalbe to geue a freeholde to the tenant wher he lost ne such thing. H. 14. H. 4.

Tenant at will of the Lord after the custome of the manor, brought a writ of right, & made his protestation to sue in the nature of assise of Mordancester: the proces did cōtinue vntil the demāndant did recover, & the tenant brought a writ of false iudgement, & assigned the false iudgmēt, & it was awardeed that

that he should take nothing by his writ for the reason aforesaid H. 13. R. 2.

In a writ of false judgment, if the shirife returne that he went to the court, & that the sutors said, þ here is no such plee, then there shal go out a Sicut alias, & not a writ to cause þ sutors to come: for the sutors shal not come but is case where the party wil auerr, that þ record is other then these sutors haue recorded. C. 10. E. 3.

And know ye, that if the shirife geue false judgment without thassent of the sutors, the party shal not haue a writ of false iudgement, but shal haue his remedy by bill against the shirife.

A writ of Error.

Ex balliuis suis de Oxoñ salutē. Quia in recordo & processu, ac etiam in redditione iuditij ass. fres. ex forciæ, quæ inter A. & B. sum fuit & capta corā nobis in curia nostra Oxoñ sine breue nō secundū consuetudinē ciuitatis præd' de uno mesuag. cū pertinē in Oxoñ, error interuenit manifestus, ad graue dampñ ipsius A. sicut ex querela sua accepim⁹. Nos errore, si quis fuerit, mod' debito corrigi, & p̄tib⁹ p̄d' plenā & celerem iusticiam fieri volentes in hac parte, vobis præcipimus q̄ si iuditij inde redditū sit, tūc recordū & processū assisæ præd' cū omnibus ea tangentibus, nobis sub sigillis vestris distincte, & aper- te mittatis, & hoc breue, ita q̄ ea habeatis a die &c. vbiq; &c. vt inspectis recordo & pcessu p̄d' ul- terius inde fieri faciam⁹ q̄ de iure & secund' legē et cōsuetudinē regi nř Angl fuerit faciend', Teste &c.

This writ of Error, lyeth in case where false judgement is geuen in the common bank,

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bank, the which w^rit shalbe retourned into the kinges bench, & if the false iudgment be geuen in the kinges bench, it shalbe reversed by parliament, or by the kinges great cōsūle by petition shewed before them. And if false iudgment be geuen in the Cⁱtie of London before the shirifes of the same cⁱty, then shal a w^rit of Err^{or} be sent to the Maio^r & shirifes, þ they redresse the sayd iudgement before them in the Hustinges next to come. And if they do not redresse the said iudgmēt, then shal there be certaine Justices assigned by þ kings cōmission to sit at Saint Martins the great by Nisi prius, for to redresse the sayd iudgement. And if the default be found in the said Maio^r & shirifes, they shalbe punished for their misprision, by ordinarie contained in the Statute de aⁿ. 28. E. 3. c^a. 10. But in case that false iudgment be giuen before þ Maio^r, then shalbe made one commission to certaine persons as is said. And in case þ a w^ritte of false iudgement be retourned before þ Justices of the common bank, & the party say that the record is other then the Court recorded, the auermannet shall be recyued by the god countrey, & by those which were present in the court when þ recorde was made, if they come with the other of the countrey by the retourne of the shirif. And if they come not, be the enquest take by the god countrey, V^t patet in Statuto inde. Aⁿ 1. E. 3 cap. 5.

In a w^rit of Mesne brought against two brothers, þ one hath issue & dieth, & iudgemēt is geuen against þ other by his default, & the issue

issue & his uncle doth bring a w^rit of erro^r for that, that the seigniorie is departed betwixt males by usage, and assigned for Err^r the death of his brother at the time of iudgment, & was awarde^d, that the iudgment be reuer^sed, for that, that the brother, in this case may not haue a w^rit of disceit for to reu^rse that, that was lost, but onely damages, and this is erro^r in deede. C. 16. E. 3.

One assigned Err^r, that such a day the Exigent was awarde^d returnable such a day afore which day the king died, & he^r was not but two times demaunded in y^r time of king Edward the fourth, and th^ree times in time of king Richard the third, & that was hol^den Err^r, for that the w^rit abated in deede, by the death of king Edward, and that is erro^r in deede. And yet this v^rlaw^rye is not boide, but Err^r. M. 7. H. 7.

One assigned erro^r, forasmuch as after the issue joined, and afore the verdict his attorney was deade, that was no erro^r, for that, that by his death the w^rit abated not, nor the issue swaiued ne discotinued, for that that that he may appeare by another attorney, or proper person. And also he shall not say that his attorney was dead at the time of his ple^r for that, that it is against the record, but he shal say that another man of the same name appeared, without that, that the attorney was of liue. And know ye y^r he may not asigne erro^r but in proper person M. 7. H. 7.

Err^r brought in the bank of the king of a iudgement geuen in a w^rit of Dower, and

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assigned for error, for that, that these tenants in the writ of dower appeared by attorney, where no warrant of attorney was entered, & prayd a writ to certifie, if any warrant be or not: & it was awarded that he shal not haue aduantage to assigne that for Error. And differencie taken betwixt error which is matter in deede, & error which is matter of record. For if the partie one time sue one Scire facias, he shal never assigne error in deed after, for if after a Scire facias awarded, one wil assigne Error, for to auoide one outlawry, to say, that he was in warre in France vnder such a captaine, he shal not haue such assignement for it is error in deede, and not parcell of the record. And loke if one after the Scire facias may assigne error, for to reuerset one outlawrie, to say that he was not but fower times called, and pray a certification. Quare, if he shal haue or not, for to certifie the Exygent &c. H. 22. E. 3.

In a Scire facias, out of a recognisance against vi. the shirifes returned y thare are dead, and these other thare come by warning and alledged the death of the other, and that their heires are within age, and demaunde iudgement, if during their nonage, they shalbe put to answere: upon which was awarded, that the ples shal tary. And now the ples was a writ of error, and assigned Error for that y by the recognisance al vi. were charged and every one of the whole, for the which when these thare did come, execution against them ought to haue bene awarded. Another error was

was, for that, that they alledged þ the heires of the other thre were within age &c. which pleþ lieth not in their mouthes, for that, that they are straungers &c. And for the first Error was said, that the charge falleth equally vpon al these tenants in common, & not vpon one, for notwithstanding that the landes of the one were luyered &c. He shalbe ayded vpon his suggestion &c. And to the second Error was sayed, that a straunger may alledge the nonage of another, and proces shall not be made against him, in whom nonage is alledged, if it bee not trauerled, and all was affirmed by iudgement &c. C. 29. E. 3. M.

9. H. 5.

If a wȝit of Trespas be brought against many, & some appeare and plede not giltye, whiche are found giltye, & against these other proces is sued. Quare, if these other that are founde giltye shalbe receiued to alledge Error in the proces made against þ other which are seuered in proces M. 9. H. 5.

The executors of one man brought a wȝit of Error of outlawrye pronounced against the testator in his life, and for diuers errors þ outlawry was reuersed at their suit, & they restored to the goods of their testator. P. 11. H. 4.

¶ A writ of Dedimus potestatem de attornato faciendo.

Ex balliuis suis de hund' de S. salutem, quia per commune consilium regni nři Angl' prouisū est, quod quilibet liber homo possit facere atturnatum

C. iij.

suum

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suum ad loquelas prosequend' & defend' motas in
com', trithingis, hund', wapentagijs & alijs curfiae
breue nostro, vobis præcipimus quod atturñ quem
A. per literas suas patentes loco suo atturñ voluerit
ad loquelas suas prosequendū, motas coram vobis
in hundredo nro præd', loco ipsi⁹ A. sine difficultate
ad hoc recipiatis hac vice de gratia speciali Teste &c

This wȝit of Dedimus potestatem de atturato
faciendo, lieth where a man is pleading in þ
court of the king, and may not travayle nor
attende his pleȝ, for sicknes, or other busi-
nesse which he hath to do, then he may haue
the said wȝit directed to the Shirke, or to
an Abbot, or to a Prioȝ, or to a Knight &c.
to record his attourney. And it shalbe com-
maunded in the said wȝit, that he (to whom
the wȝit is directed) retourne the said wȝitt
vnder his seale, and the name of his attourney
which is receyued, that he may be knowne
in the kinges court, as it appeareth by a cer-
taine statute. De liberatibus perqurendis in fine.
And know ye, that in euery pleȝ of lande, &
pleȝ parsonal: as wel the tenat as the deman-
dant, may make their attourney as the defen-
dant or the plaintife, & that before Justices,
which haue power to receiue attorney with-
out wȝitte, if the pleȝ be before them in the
Chauncery, or otherwise he that shall haue
attorney, may sue to the kings court, & pur-
chase this wȝit of Dedimus potestatem, as be-
fore is said. And knowe ye, that euery free
man may make his attorney as wel to make
suit in countiz, hundredz, or in court baron as
he may pursue or defend, & þ wil the statut of

Merton

Herf c. x. And also when a free mā hath no-
ted & ordained his attorney in any maner (as
afore is said) yet he may if he will, the same
attorney remoue & make a new. And knowe
ye that no man may make attorney in apeale
as it appeareth by the Statute of Gloucester.
Cap. 8. ¶ 44.

Know ye that in apeale of Robbery, the
defendant pleded not guilty, and was founde
guilty, and after verdit he said that he was
a clerke, and the plaintife sayd that he was
Bigamus. And for as much as the proces shal
be made to the Bishop to certifie he was not
appealed vpon the principal. In this case the
plaintife was receyued to make attourney:
¶ 17. ¶ 3. lib. ass.

In apeale, the defendant was acquitted,
the abettors were inquired of, and A & B.
were founde abettors, by whiche the de-
fendant praied a distresse against them, and
had it. And praied also that he myght make
attorney against the abettors, and so did.
¶ 8. ¶ 4.

If the appellee be acquitted by enquest, & the
Justices haue enquired of the Abettours,
which are founde: & there is certaine matter
within the record that the Justices wil bee
advised of the iudgmēt, the appellee shalbe re-
ceiued to make an attorney. ¶ 21. ¶ 6.

Know ye that a woman may be attorney
for her husband by bill. ¶ 13. ¶ 3.

An infant may not be attorney, ne make
attorney. ¶ 1. ¶ 5.

Know ye, that thre thinges belongeth to
the

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the making of an attorney, one is that the attorney wil agree to be attorney for the party. And another, that the partie will haue him for his attorney. And the thrid that the Justices wil recorde his name. And none of the may be without the other. M. 7. N. 4.

Know ye, that it was said in a writ of error, brought of a false iudgement geuen in the county &c. that in every case where the partie is for to excuse him against the king of a contempt, he ought to be in proper perso and not by attorney. M. 22. E. 4.

And know ye, that it is was said in a writ of error, brought vpon a false iudgment geuen in C. that in every case where the party is to aunswere to the king, for to excuse him of a contempt, he ought to come in his perso, & not by attorney, for it was said, þ where a prohibition was awarded out of the common place to þ archdeacon of C. for that, þ by the surmise of the party, he shewed how an action of that same thing was hanging in the common bāke, & vpon that one attachment & a distres went forth &c. to aunswere to the contempt, & the archdeacon was chased at the day of the distres retorne, for to come in proper person, for excusing of him selfe in that he did not surcelle, and may not be by attorney.

One which commeth in vpon an Exigent before plee pleide, would haue made attorney & might not. Contrary law is, when he commeth in by supersedeas.

One attorney may plede misnaming of his master, which standeth with his warrant.

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As if the warranty be, I. S. ponit loco suo &c.
He may say that he is made knight.

¶ Protectio cum clausula volumus,

REx oībus balliuīs & fidelibus suis ad quos præ-
sentes literæ puenerint salutē: Sciatis q̄ suscepim⁹
in protectionē & defensionem nīam dilectū & fide-
lēm I. A. qui in obsequiū nīm & p̄ p̄ceptū nītū pro-
fectuī est ad p̄tes Scociae, ūnes trās, redditus, & oēs
possess. suas. Et ideo vobis mandam⁹ q̄ ipsū Io. trās,
redditus & oēs possess. suas manuteneatis, prote-
gatis & defendatis, nō inferentes ei vel inferri p̄mit-
tentis iniuriam, molestiā, dāpnū aut grauamen. Et si
quis eis faciat, sine dilatione faciatis emēdari. In cuius
rei testimonī has literas rīras fieri fecimus patentes
vīq; ad festū sancti Mich. px: futū duratuī. Volum⁹
etīa q̄ idem I. A. interim sit quietus de oībus p̄litis
& q̄relis, exceptis p̄litis de dote, vnd' nihil habet &c.
Quare imp̄, & Aff. no. diff. vltimæ p̄sentationis, &
attinct: et exceptis lequelis, quas coram Iustic' nostris
itinerantibus in itineribus suis summoniri contige-
rint, presentē minime valituī, si contingat ipsum I. A.
iter illud non arepere vel postquam citra terminū
illū, in Anglia redierit a partibus S. &c.

Protectio cum clausula volumus, lieth in case
where a mā passeth ouer y sea in the kings
seruice vnder any Lord, & if he will haue the
said protection he ought to haue the seale of
his lord (with whom he went) or a b̄l direc-
ted to y gardein of the priuy seal for one such
y wil go to him in the kings seruice, & when
he hath a priuy seal he may haue his protectiō
granted of y Chācellor. And know ye y eue-
ry mā whiche hath y protectiō (Cū clausula vo-
lumus) shal be acquited of al maner of p̄les, ex-
cept

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cept pleas of dower, Vnde nihil habet, Quare impedit, Assisa de nouel disseisin, vltimæ presentationis, and except pleas which are summoned before Justices in Eyre. But the protection shal not be allowed before any Judge, for taking of vittaille or buying for the boiage in þ seruice, wherof the protection maketh mention. Ne other wayes in pleas of trespass, or contracts made or had, after the date of the same protection, as will the Statute An. 1. R. 2. cap. 8. which beginneth, Item assent &c. And know ye that in case that a man purchase this protection, for to delay any pleas in disceit of the partie, or in any other maner, & he go not in the byage, after the maner of his protection, the party demaundant or plaintife may haue one Cerciorare out of the Chauncery to the shirife (wher such person dwelleth) for to certifie the King in the Chauncery thereof, whether he be gone or not, and the shirife reozne that he is not gone in the byage but dwelleth in such place attending to his proper busnes, the party persuant may haue a patent (which is called Innotescimus) to all people for to adnul the said protection, or other close wȝit directed to the Maior, shirifs or baillies commanding them, that if the said protection be shewed before them, or any of them, in delay or disturbance of the demaundant or plaintife, they shal take the said protection, & that send into the Chauncery for to be there cancelled, & adnulled. And in the same maner shal the demaundant or plaintife haue to the Justices of the common bank, or other

other Justices that they shal surcelle to allow such Protections. And that they shall send the Protection into the Chauncerye as afore is sayd. And when any such protection is shewed before the Justices for to delay the party (as afore is sayd) the by the Statute de Protectionibus allocandis, made in the time of king Edward sonne to king Henry, the 33. yere of his raigne, is ordained certaine manner of proces, as appeareth in the said Statute.

Know ye that a Protection, q̄a prefeturus shal not be allowed in any p̄le commenced as fore the date of that, if it be not in the b̄yage where the king goeth himselfe or other viages royal or in messages of the king for busynesse of the Realme. An 13. R. 2. ca. 16. And where a protection shalbe allowed in viage royal, hereafter appeareth.

In a Scire facias, to haue execution of a fine the tenant sheweth a Protection, Quia prosecut̄ur in comitiua, with the protector of þ realme & was allowed, and if he go by commaundement of the king in message &c. it shalbe allowed H. 3. H. 6.

In a Praecepte quod reddat, a protection was shewed for one, which went with the Earle of H. into Gascoine, and was challenged for that, that it was not viage roiall, & the commission of the Earle was shewed for the, which wil that the king made him his iyeutenant, and gaue him power to pardon felony and treason, & to enquire of those which made resistance against him, and to make coyne

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copne &c. And for that, that he hath power to enquire by special grant, y protection was allowed. **P.7. H.6.**

In det the parties demurred in iudgment: and the opinion of the court with the pleintife, and the defendant praied that the iudgment might be respited unto such a day, and it was sayd by the court, that if hee sued a protection in the meane time that it shall not be allowed. **E.4. H.7.**

A protection was laide before (quia profec-
turus est) in the company of T. the kings sone
into Irelande, and it was purchased han-
gning the writ, whereof it was not allowed,
for that, that it may not be sayd by age royal,
without he bring the kings host into Irelād
M.11. H.4.

But knowe ye, that after Moyle, that a
Protection of byage royal into Ireland, shal
not be allowed. For they are within the iu-
risdiction of the realme. Otherwaies it is of
Scotland, Therefore inquire what the law
is. But after Littleton a protection (Quia mo-
ratur super saluam custod') shalbe allowed. The
same law shalbe, Quia morat in ptibus V Vallia
but the booke is not adiudged. **H.7. E.4.**

In a formdon, a protection shal not be al-
lowed, for the Gardeins of yfisoners, which
haue suffred men that be cōdemned, to go a-
large. **A.7. H.4. cap.4.**

A Protection shal not be allowed in a scin-
facias, ypon a trauers of office taken before the
Escheteor, or commissioners against any pa-
tent. **A.33. H.6. cap.17.**

Know

Know ye, that an infant, a woman couert may sue a protection. H. 12. E. 3.

Know, that it is said that if xx. of a cominity are by protection, & in the service of the king, the protection shall not be allowed but for them only. For if xx. of the cominity be in service of þ king, notwithstanding that there be Maior & cominity, yet the cominaltie abideth at home. H. 13. E. 3.

Know ye, that when the defendant, which went to imparle, was demanded to come with his aunswere, a protection was put before, quia prefecturus est, which was of elder date then was the imparlance, & that notwithstanding it was allowed. Otherwyses it shoud be if the protection had ben, Quia moratur in obsequio. H. 36. E. 3.

Know ye that if there be more in the protection, then in the writ, the protection shal be allowed, but if there be less in þ protection, then in the writ, it is not allowable. H. 8. E. 3.

In appeal of Maime, a protection was sued for the defendant, & notwithstanding that the plaintiff recovered nothing but damages, in this suit the protection was disallowed. C. 19. E. 3.

¶ Protectio cum clausula nolumus.

¶ Ex omnibus balliuis &c. vt supra, salutem. Scias quod suscepimus in protecc' nostram dilectu' nobis in Christo Priorem de N. omnes terras, res, redditus & omnes possessiones suas. Et ideo vobis mandamus quod ipsum Priore, terras, res, redditus & omnes possess. suas manuteneatis, protegat & defendat non

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non inferentes eis vel inferri permittentes iniuriam aut grauamen, & si quod eis foris factum fuerit, id eis sine dilatione faciatis emendari. Nolumus enim, quod de bladis, fenis, carectis, carragijs, bob⁹, vaccis, vel porcis, ouibus aut alijs animalibus, victualibus siue ceteris bonis et catallis ipsius Prioris con*c* voluntatem suam ad opus nostrum aut aliorum per balluos seu ministros aut alterius cuiuscunque quicquam capiat, teste &c.

This w^rit of Protection (Cum clausula nolumus) lieth in case where a mā is in doubt that the ministers of y^r king, or of any other, wil take his coⁿne, haye, horse, cart or such like. And know ye that this protection may be graunted by euery maister of y^r Chaunce^ry without priuie seale.

¶ A writ of right De aduocati^one ecclesiae.

REx A. salutem. Precipimus tibi quod plenum rectum teneas VV. de L. de aduocatione ecclesie de N. quam clamat pertinere ad liberum tementum suum, quod de te tenet in L. per liberum seruicium vnius denarij per annum pro omni seruicio, quam I. de VV. ei deforc^r vt dicit. Et nisi feceris vicecomes &c. ne amplius &c. recti. Teste &c.

¶ Another writ that lyeth in the common banke.

REx vic' N. salut^r, precipe A. quod iuste &c. redat D. aduoc^r ecclesiae de N. quam ei iniuste deforc^r vt dic^r. Et nisi prædict^r D. fec^r te. &c. tunc sum &c. prædict^r A. quod sit coram Iustic^r nostris apud VV. vt supra.

This

This w^ritt of De aduocatione ecclesiæ lyeth where a man hath right of Aduowson, & the parson of the church dieth, and a stranger dothe present his clerk to that church, and he which hath right, hath not moued his action of Quare impedit, nor darrein Presentinet within the vi. moneths, but doth suffer the stranger to usurp vpon him, then he shal not haue any other w^rit then a w^rit of right of Aduowson. And this w^rit he shall not haue if he clayme not the aduowson to him and to his heirs in fee. And also he may haue a w^rit of right of aduowson of the halfe, & the third part, or the fowerth part as wel of the whole (if he be forced.)

And know ye, that a w^rit of Right, Quod reddat aduocationem decimarum, is not graunted by the Statute of Westminst. iij. chap. 5. which beginneth, Cum de aduocatione ecclesiariū &c. which will that if the Parson of any church by a w^rit of Indicauit bee disturbed to demaund his dimes, his Patron shall haue a w^rit of right of Aduowson to demand the same dimes. But the w^rit of Indicauit lyeth of no lesse parcel, then of the fowerth part of the church, therefore no more doth this w^rit, but yet after some men the w^rit lieth of lesse parcel at the common law. And the proces in this w^rit is, Summons, Graund Cape & petite Cape after aparance. And the proces against the Iurie is the common proces, Venire facias, Habeas corpora & Distring. And know ye, if a man hold of the King a Manor by graunde Herieantie or by petit Herieantie, unto the D. i. which

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Whiche maner an Aduowson is belonging,
and hee doth sell or graunt the Aduowson
in dismembrance of the seigniorie, the king
shall p[re]sent to the first auoydance after &c.

Know ye, that in a Writt of right of Aduowson brought by the kinge, the defendant
shall not proferre the halfe marke, ne iudgement
finall shall bee geuen agaynst the king.

And know yee, that in a writte of right
of Aduowson the tenant doth toyn the mise,
and day is geuen to him vnto the feast of the
Purification of our blessed Ladie: at whiche
day hee commeth not, but commeth at the
third day after. Judgement finall was ge-
uen vpon the default. P. 2. E. 3.

But if the Tenant in a writte of right of
Aduowson do knowledge the right of the
demaundant, Judgement shall bee geuen,
that hee shall recover the Aduowson: And
Judgement finall shall not bee geuen, for
that that the mise was not ioyned. Mich.
33. Ed. 3.

A release of the plaintife him selfe, or of
an other auncstor, by whom the dissent is
not made, is a good barre without ioyninge
the mise, And iudgement final shalbe geuen,
M. 17. E. 3.

A writ de Assisa ultimæ præ- sentationis.

R Exvicecomiti Midd salutem. Si A fec' te securum
&c. tunc sum &c. duodecim liberos & legal' ho-
mines de vicineto de B. quod fint coram Iustic' &c.
parat sacramento recognoscere q[ui]s aduocat tempore
pacis

pacis præsentatuit ultimam parsonam quæ mortua est ad ecclesiam de C. (vel ultimum vicarium q̄ mortuus est ad vicariam de N.) quæ vacat (vt dicit) & cuius aduocationem idem A dicit ad se pertinere, & interim ecclesiam illam videant, & nomina eorum imbreuiari facias, & sum B. qui aduocationem illam ei defore, & tunc sit ibi ad audiend' illam recognicionem, & habeas ibi sum, & hoc breue. Teste &c.

This w̄it of Aſſisa ultimæ præsentationis ly=
eth where I or mine auncestor hath pre=
sented our clarke to a Church, & after our
clerk dieth, so that the church is void, and a
stranger doth present his clarke to the ſame
church, & doth diſturbem̄: then I ſhal haue
this w̄it, or a Quare impedit at my pleaſures
But the Aſſife is more beſter. For in Aſſife
I claime of my propre poſſeſſion, or of the
poſſeſſion of myne Auncestor, But in the
Quare impedit aſſwell the diſturbors as I;
claime the poſſeſſion and right. And know
ye, that where a man may haue aſſife of dar=
rein præſentment, he may haue a Quare impe=
dit, but not the contrary. And the proces is,
Hummons, & Reſummons againſt þ party,
& againſt the Jurore, Hummons, Habeas cor=
pora et Diſtriſc. And know ye, that in Aſſife
of darrein Præſentment & Quare impedit, a
man ſhall recouer damages, if vi. monethes
be paſt before his recouerie, he ſhall recouer
the value of the church by two yeaſes. And
if the recouerie be before the vi. monethes be
paſt, then he ſhall recouer damages, that
is to ſaie, the halfe of the Church for one
yeare: And that will the Statute of Westm. iſ.

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chap. 5. Whiche beginneth, Cum de aduocatione ecclesiarum: and in the said estatute are ordyned these writs originalis of aduowson of churches, that is to say, a writ of right of aduowson, which shall be determined by bat-
tail or graund Assise. A writ of Darreine presentment, and Quare impedit, which are of the possession. And if any man which hath no right to the aduowson do present his clerk in hym tyme þ the Aduowson was to any gardeyn by reason of anie infant, or in tyme of tenant in dower or by the curtesie, for terme of life, for yeares or in taile, yet the Statute will that when the church falleth void, and they in the reuersion after the death of the said tenants or gardeyne be disturbed, they shall haue their recouerie by Assise of darreine presentment, or quare impedit. But they in the reuersion shal not be ayded by the aforesaid writs, if the said aduowson be recovered against the foresaid tenants & gardeyn, by iudgement or inquisition, notwithstanding that the said tenants & gardeyn haue faintly defended their place, but the iudgment shall stand in his force, vntill such time that it be adnulled by the iudgement in the kings court by Error, Attaint or by Certification, as the statute wil &c. Know ye, that in these cases, a man shal haue assise of darrein presentment though that he nor his auncestors had not the last presentment. As if I present, & after þ church falleth void, & the bishop wth present by lyps as Ordinary, I shall haue this writ: & if my gardeyn do present, I shall haue

hane an assise of darrein Presentment. p.
20. E. 3. M. 6. E. 2

Know yee, that if the Presentee do re-
igne, yet the w^rit shall say, qui mortuus est.
T. 18. E. 3.

Know yee, that the plaintiff made this ti-
tle, that he himselfe was seyed and presen-
ted &c. and the w^rit was, Et summoneas B.
qui aduocationem illam ei deforceat. And the
w^rit was challenged and not allowed for
that, that it is the forme of the Chauncerie.
M. 2. E. 3.

A writ of Quare impedit.

REx vicecomiti Midd' salutem. Prae^cipe A & B. q
iust^e &c. permittant C. presentare idoneam
personam ad ecclesiam de N. quae vacatur et ad su-
am spectat donationē, vt dicit, & vnde queritur q
prē^d A & B eum iniust^e impediunt, & nisi fecerint
&c. & tunc sum^m &c. prē^d A & B q^s fint coram Ius-
ticia^r &c. tali die ostens. quare non fecerint &c. Et
habeas ibi sum^m, & hoc breue. Teste &c.

This w^rit of Quare impedit lyeth where a
man hath purchased a manor, to the which
manor an aduofeson is belonging: the parson
dieth, a stranger doth present his clark, then
he shall haue the said w^rit, and not assise of
darren presentmēt. And the proces is in this
w^rit as in assise of darrein Presentment, as
is conteyned in the statute of Marl^b. chap.
xij, Sommons, Attachement and one Distresse,
and if the partie defendant come not at the
Distresse, then the plaintiff shal haue a w^rit-
ting to the Bishop of the place, that he may

D. iii.

accept

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accept his clerk to the said church, saving to the defendant another time his right (if ther of he shall complaine.) And know yee, that in assise of darcene Presentment, & in a writ of Quare impedit dayes shall be gauen from xvi to xviii. and from iii. weekes vnto thre weeks, as the place is distant. And that wch the Statute aforesaid.

Know ye, that if a Quare impedit be brought against the bishop & a stranger, and the Wy shp disclaimeth saue onely as Ordinarye, and the other sayeth that he is parson iupsoner of collation of the bishop: In this case the writ shalbe awardeed to the Metropolytan and to the shp. H. 19. E. 3.

Know ye, that a Quare impedit was brought against a Prior as patron, & one A as Incumbent, & hanging the writ, the Patron dyed, yet the writ was maintenable against the Incumbent alone. H. 9. W. 6.

A writ of Ne admittas.

REx &c. venerabili in Christo patri eademi gratia. L. Episcopo, salute. Prohibemus vobis ne admittas parsonam ad ecclesiam de N. quæ vacat, ut dicitur, & de cuius aduocatione contentio mota est in Curia nostra inter A & B, donec discussum fuerit in eadem curia ad quem eorum pertineat eiusdem ecclesiae aduocatio. Teste &c.

This writ of Ne admittas lyeth, where one man impleadeth another by a Quare impedit, or by assise of darcene Presentment in the Kings Court. Then if the plaintiff suppose that the bishop will present the clerk of the

defendant hanging the ples betwixt them of the said church, he may haue the sayd writte directed to the Bishop, prohibiting him that he present no clerke to the said Church before that it be discussed betwyx them, who hath right to the said church to present. But if they bæ in ples, and the presentation not discussed, nor no recouerie within y lye monethes, then the Bishoppe shall present by Laps: if the plaintiff recouer, he shall recouer damages, as is conteyned in the statute of westm. n. chap. b. And the proces is one Prohibition, & upon the Prohibition, Attachment & a Distres. And know ye that if the defendant in a Quare impedit come not at the Distres, then the plaintiff shall haue a writ to the bishope, that he shall accept hys clerk to the said church, sauing another tyme the right of the defendant &c. And this writ shall be Judiciall, and is such.

REx &c. venerabili, vt supra, salutem. Sciatis quod cum B. in curia nostra &c. recuperauit præsentationem suam versus C. ad ecclesiam de N. quæ vacat per defalc ipsius C. Et ideo vobis mandamus quod non obstante reclamacione præd' C. ad præsentationem præd' B. ad ecclesiam idoneam personam admittatis. Teste &c.

A VVrit de Quare non
admisit.

REx vicecomiti salutem. Si A fecerit te securum de clamore &c. tunc sum' &c. B. Lincoln episcopum quod si coram Iustie &c. ostensurus quare D. iiiij. cum

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cum idem A. in Curia nostra coram p̄f. Iusticia nostris recuperasset versus C. præsentationem suam ad ecclesiam de I. per recognitio Assisæ ultimæ præsentationis ibi inter eos captam, propter quod mandauimus eidem episcopo, quod non obstante reclamacione predicti C. ad præsentationem ipsius A. ad ecclesiam p̄d idoneam parsonam admitteret: idem episcopus w. clericum p̄d A. per ipsum presentat ad ecclesiam p̄d, admittere recusauit, in nostri ac mandatorum nostrorum contemptum, & considerat Curia nostra p̄d lesionem manifestam: & habebas ibi sum, & hoc breue. Teste &c.

This w̄xit lyeth where a man hath recovered one adiutorson of a church, & he doth send his able clerke to the bishop for to be presented to the said church, and the bishoppe will not receiue him, then he which hath recovered shall haue the said w̄xit. And this w̄xit is a w̄xit of contempt and all times is iudicial, & goeth out of the rolles of the Iustices: but in time of vacation when þ Court atteth not, then it shall be made in the Chāterie. And the proces is Attachment and Distres. And a Quare non admisit pro rege hath beene made and insealed by some men without making mention of any recovery before made. And yet it is by the P̄errogative of the kinge.

Know ye, that this w̄xit shall be brought in the countie where the refusall was made, for that, that he shal recover nothing but damages, and not the presentment, otherwise the w̄xit shall abate: but a Quare impedit shall be brought in the countie where the churche

is: for that that he shall recover the present-
ment, and that is the diuersitie. And if the
bishop admit him & make letters to the arch-
deacon to induct him, the bishop is excused
though that the archdeacon refused to induct
him. And he is put to sue against the arch-
deacon in the court Christian, for that is a
thing spirituall. And it is a good plee for the
bishop to say that he him admitted, and made
letters to the archdeacon for to induct him
without saying that he him inducted. An.
38. H. 6.

And if the writ, to admit his clerke, be di-
rected to the vicar generall and he refuse, yet
the Quare non admitt shalbe brought against
the Bishop. M. 13. E. 3.

The Bishop refused to receive a clarke and
died, by which one praied a writ against the
archebishop of Caunterbarie gardeine of the
spirituallies, and to him was denied. But a
writ was graunted to him against the gar-
den of the spirituallies, but not against the
archbishop, for that, that the first writ was
not directed to him. M. 15. E. 3.

A writ of Quare incumbrauit.

Ex vic' A. salutem. Si A. fecerit te secur' &c.
Tunc sum &c. B. Lincoln episcopum, quod fit
coram iustic' &c. ostensurus quare cum idem A. in
curia nostra coram praefatis iustic' nostris recupe-
rasset praesentationem suam ad ecclesiam de I. per
assisam vel recognitionem ultime praesentationis in-
terior in inter eos cap', idem tñ episcopus pendente
placito in praefata curia nostra coram iustic' nostris
super

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Super captionem ultime presentationis praedictæ, eccliam praedictam incumbrauit in ipsius A. præjudicium non modicum & grauamen & contra legem & consuetudinem regni nostri. Et habeas, &c. Teste &c.

This w^rit lyeth where there is two pleading for the aduowson of a church, & han-
ging the p^lee v^t Bishop presenteth one of his
clerkes within the vi. moneths to the saide
church, then he that hath recovered shal haue
this w^rit against the bishop. And know ye,
that this w^rit lieth not but haging the p^lee
for if it be out of the p^lee, & I send my clerke
to the bishop for to be of him accepted, and
he him refuse, and present one of his owne
clerkes, then I shal haue a Quare impedit, or
darreine presentment as my case lyeth, & not
the Quare incumbrauit. And the proces is Ho-
mons, attachment and distresse. And know
ye that when a Quare impedit, or allise of dar-
reine presentment is brought against the bi-
shop as disturber of aduowson of a church,
þ bishop may not present because of Laps af-
ter the terme of vi. moneths vntil the p^lee be
determined betwixt him & the plaintise.

Know ye, that after the saying of Stoner
that a Quare impedit lyeth not, but where a
Non admittas is directed to the bishop hanging
the w^rit. M. 3. I. E. 3. M. 18. E. 3.

And note that this w^rit shal bee brought
alwaies in the common banke, for that, that
it is a common p^lee. In a Quare incumbrauit
it is no p^lee to saie, that there is no such re-
cord here, nor it is no p^lee to saie, that the re-
cord

cord is sued in the kings bench and error as-
signed M. 17. E. 3.

Know ye, that a Quare incumbrauit shalbe a-
warded against the bishop where he incam-
beth within the tyme of vi. monethes not-
withstanding that no action was purchased
befuze. T. 21. E. 3.

A writ of prohibition.

REx archiepiscopo Cantuar, et eius commiss. sa-
lutem. Prohibemus vobis ne teneatis placitum
in curia Christianitatis de catallis vel debitibus vnde
A. queritur quod E. trahit eum in placitum in curia
Christianitatis coram vobis nisi catalla vel debita sint
de matrimonio vel de testamento, quia placita de ca-
tallis & debitibus quae non sunt de testamento vel de
matrimonio spectant ad coronam & dignitatē no-
stam. teste &c. Eodem modo fiat alia prohibic' parti
ne sequatur, mutatis mutandis.

REx &c. venerabili in christo &c. veleius offic'
Racorum commissar salutem, prohibemus, vt su-
pra, de aduoc. eccles. de N. vel medietat vel tertiae
partis, & vnde G. & E. vxor eius querit quod T. e-
piscopus de L. trahit eos in p̄sita coram vobis in cu-
ria christianitatis quia placita de aduoc. ecclesiarum
spectant ad coronam &c.

This w̄rit lieth where a man is impledēd
in court Christian of things, which tou-
cheth no maner of matrimonie, nor testa-
ment, But such things, which toucheth the
crownē of our soueraigne L̄yd the king, as
Dette, Trespas, or of any such like which
shall bee pleaded in the kings court, then
he may haue the saide w̄rit directed to the
ordina-

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ordinaries, & officers, or commissioners of the said court Christian, them commanding to cease their ples. And also know ye that he may haue as well a prohibition to the shirife, that the partie shal not pursue, and to the officials, or commissaries. And the proces is in this writ, the prohibition. And if the partie sue before the ples in court Christian, notwithstanding the prohibition, Then shall go out of the Chauncerie one attachement. And this attachment is returnable, if he cease not, then shall go the distresse.

Note out of what court a man shall haue a prohibition, and attachment upon a prohibition. In a writ of Trespas brought in the common place, the parties being at issue, and hanging that, the plaintiff sueth in court Christian, the defendant shall haue a prohibition out of the same place. An. 13. H. 6.

In a Quare impedit brought by the king against the parson of C. for that that he him disturbed to present to the vicarage of þ same church, and before that soit was returned the parson hath sued a citatio against the presenter of the king: and he prayed prohibition: And to him it was graunted by the Justices of the common place. C. 2. E. 4.

If a man make an othe to enfeoffe mee of his land: If I sue him in court Christian Pro lefione fidei: he shall haue a prohibition against the partie and the Judges also. And if a man and his wife do sell land (which is of the right of the wife) & the wife is sworn that shre shal not sue no Cui in vita. And after the

the death of her husband, shē bringeth her Cui in vita, and the other sueth her in court Christian, Prolesione fidei, shē shall haue a prohibition. T. 11. H. 4.

Know ye, that if a man be sued in court Christian, of covenant broken without especialtie, or executors are sued for a simple contract made by their testator. A prohibition shalbe awarded, and yet the plaintife hath no remedie by the common law. M. 22. E. 4.

Know ye, if the baillife in court baron hold place aboue xii. the defendant may haue a prohibition: if one swere bypon a booke, to paye certeine money, at a certaine day, & at the day he paieith not the money, and the other sueth him in court Christian, Prolesione fidei, he shall haue a prohibition &c. H. 16. H. 6.

A writ of Indicauit.

Rex Iudici tali, & eius offici, vel eius commissario salutem, Indicauit nobis A. q̄ cū B. teneat ecclesiam de C. de aduocatione sua, VV. clericus clamans quartam partem eiusdem ecclesiae de aduoc. E. R. trahit eum inde in placitum coram vobis in curia Christianitatis: quia vero manifestū est quod prædicti A. iacturam sue aduocationis incurret si prædictus VV. in placito illo causam illam optineret, vobis prohibemus ne placitum illud teneatis in curia Christianitatis donec discussum fuerit in curia nostra ad quē illorū pertineat eiusdem ecclesiae, vel capell aduocatus, quia placita de aduocatione ecclesiarū spectant ad coronā & dignitatem nostram, teste, &c.

This writ lyeth where a debate is betwixt two clarks in court Christian: of a church

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or of part of a church, or for dismes, which amounteth at y least to the value of y fourth part of a Church, or to a greater part as the second part, or third part, then for that, that the patron of the clerke defendant shall loose his aduowson (if the clerke of the plaintife recouer in court Christian) and the plaint of the aduowson of the dismes, which amounteth at the least to the fourth part of the value of the church, belogeth to the court of the king, and may not be gained ne lost in court Christian: for that cause the patron of the clerke defendant shall haue in the Chancerie the said wryt of Indicauit, directed to the clerke of the plaintife, or to the officers of the court Christian, commaunding them to cease their plee and pursue vntill that it bee discussed in the kings court, to whome the aduowson belongeth. And know ye, that the Statute of Westminster 2. Cap. 5. Which beginneth Cum de aduocationibus ecclesiarum &c. in the end of the said statute is recited, that if the patron of the clerke plaintife be in such manner disturbed, he shall haue a wryt of right de Aduocatione decimatum. And when the aduowson is discussed in y kings court, then the plee shal procede in the court Christian. And the proces is as in a prohibition: for it is a prohibition in it selfe. And know ye that a wryt of Indicauit, shalbe betwixt four persons, two shall be patrons, and two shall be clerkes: whereof the one clarke claimeth to hold the church, or part of the church of the aduowson of one patron, and the other clerke

clerke, of the aduowson of the other patron, & if the dismes of the aduowson be demaunded in court Christian, and the dismes be not to the value of the fourth part of the church, then the prohibition shall haue no place. And know that this writ is not returnable, but if they cease not in their pursuit, he shal haue one attachement, and after the attachement returned, the distresse shal go out of y rolles of the Justices.

Know ye, that if an Abbot be parson in persone of the church of Dale, & he deman-
deth the fourth part of the dismes against one A. parson of the same church which is in
of the presentment of a stranger. In this case
the parson of his patron shal haue the Indi-
cauit. And yet they are but three parsons in
all. And if a man hath iudgement to recouer
dismes amounting to the valure of y fourth
part, and sentence dissinitie is giuen, & the
defendant appealeth to the bishops court by
the which the Bishop doth send a delegacie
to certeine persons, and they make subdele-
gacie: In this case the partie shal haue y In-
dicauit to the judges subdelegacy. M. 12. E 4

Know ye, that before the Libell be put in,
in court Christian, he shall not haue the Indi-
cauit, and it behoueth to him that wil haue the
Indicauit to shewe the Libel to the Chauncel-
lor. Pa. 31. H. 6.

A writ of Consultarion.

Ex iudici tali salutem. Ex parte VV. de H. perso-
ne Ecclesie de S, nobis est ostesum quod cū ipse
nuper

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nuper petierit coram vobis in curia christianitatis versus I. de C. & C. de I. executores testam' B. defunct secundum melius auer', quod fuit eiusdem B. nuper parochiani dicti ecclesiæ defunct nomine mortuari, dictæ ecclesiæ debit, ac præfat execut processum placiti prædicti coram vobis inchoati fraudulenter machinantes impedire afferentes quod placitum illud in curia Christianitatis de catallis & debitibus, quæ non sunt de testamento vel matrimonio quædam prohibitionem nostram ne placitum vobis dirigi procur, cuius prohibitionis praetextu in causa illa hucusque proceder distulisti, & adhuc deferis in ipsius VV. & ecclesiæ prædicti graue præjudicium, & inundacionis periculum manifestum, & quia in articulis, præfatis prælati & clericis nostris per nos nuper concessis, plenius continetur quod in decimis, oblationibus, mortuariis, quando sub istis nominibus proponuntur prohibitione nostra non est locus: vobis significamus, quod in causa prædicta si vero de mortuari agat (ut prædicti est) tunc non obstante prohibitione nostra ulterius facere poteritis, quod secundum formam ecclesiasticam fore videritis faciend', teste, &c.

And this writ lyeth in case where a man is impleaded in court Christian, of things whiche toucheth testament, or matrimonie, & the defendant doth purchase a prohibition in the Chauncerie, directed to the ordinaries, commanding them to cease of their ples and pursuit, by force of which prohibitiō, the ples is extinguished, then the plaintiffe shall come into the Chauncerie, shewing the copie of their ples contained in his bill to the Chaunceller, and then he shall hane the said writ directed

directed to the ordinarie before said, commanding them to pursue forth in the plee, notwithstanding the prohibition before to them directed. And know ye, that a Consultation lyeth euer for the plaintiff, that first moueth the plee in Court Christian.

¶ A writ of Vi laica remouenda.

REx Vicec' salutem, Præcipimus tibi , quod vim laicam & armatam quod B. tenet in prebenda A de C. in ecclesia de C. ad pacem nostram perturbandam sine dilatione amoueas ab eadē, & si quos tibi resistentes inueneris, tunc assump' tecum suffic' posse Com' tui si necesse fuerit , eos per corpora sua attach. & in prisoña nostra saluo custod', ita qđ habeas coram nobis &c . vbi cunquē &c. ad respondendum nobis de contemptu , & resistantia supradictis. Et habeas ibi hoc breue. Teste &c.

This writ lyeth where debate is betwixt two persons for a Church, & the one doth enter into the Church with great power of lay men , and doth holde the other out wyth force, then he that is holden out shall haue a writ directed to the Shirife, that he remoue the great power of lay men which is within the Church, and it shalbe commaunded to the Shirife, that if he finde any men making resistance , that he shall take wyth hym the power and ayde of his Countie. And al they that did resist shalbe attached by their bodies and put them into prison , vntill they come before the king at a certain day so aunswere of the contempt, And this writ is returnable, and shall not be graunted before that the

E.s.

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Byshop of such a place, or such a church hath
certified in the Chauncerie by his w^rit of
such resistance &c.

A writ of Excommunicato capiendo.

REx Vic^t salutem, Significauit nobis R. venerabi-
lis pater L. Episcopus, per literas suas patentes,
quod R. propter manifestam contumaciam suam
excommunicatus est, nec vult per censuram ecclesi-
asticam iustificari, quia vero potestas Regia sacro-
sanctae ecclesiae in querelis eius deesse non debet,
Tibi præcipimus, qd' prædictum R. per corpus suum
secundum consuetudinem Angliæ iustic', donec
sanctæ ecclesiae tam de contemptu, quam ei iniuria
illata ab eo fuerit satisfactum, Teste &c.

This w^rit lyeth where a man is excom-
menged by the Bishop, & if he will not be
iustified by the Ordinarie, Then the Bishop
shal send his letter patent to the Chaunce-
lor rehersing the excommingement. And then
shalbes commaunded to the Shirife of the
same Countie, to take the bodie of him that
is cursed, and by his bodie he shalbe chastis-
ed vntill he submit him selfe to the order of
the holy Church for the contempt & w^rong
by him done. And this w^rit is a Justicies.
And if the Shirife will not make execution
of the said w^rit, then shal go out a Sicut alias &
Pluries, and after attachment, as in a Reple-
tyn. And know ye, that if he that is excom-
menged hath made agreement aswell for the
w^ronge as for the contempt made to holy
church. Then the Bishop shal send his w^rit
to the king, certifyingng by the same w^rit, that
he

he hath made agreement with holy Church for the contempt. Then shalbe commaunded to the Shirife of the same countie by a w^rit De Excommunicato deliberando, that he shall deliver that same man whiche is in such manner imprisoned &c.

Know ye, that a certificat made by these persons of any excommengement is to no value. If the Wyshop certify excommengement by his letters, it is nothing to the purpose.

Aⁿ 30. E. 3. Lib. 11.

The same law is, if the comissary of v^t Wyshop certifie excommengement, but if it bee certified by the Archdeacon of Richmond, or by the Deane and Chapter of Caunterbrie, in tyme of vacation it shalbe allowed.

E. 7. E. 4.

But if the Deane of saint Martins, or Abbot of saint Albons, or other like, which are persons exempt of euery Ordinaries iurisdiction, certifie excommengement, it is nothing to the purpose, nor of no value.

Pa. 20 E. 3. M. 12. E. 4.

The same law is, if a Wyshop certifie excommengement made by another Wyshop

H. 33. E. 3.

And if the Wyshop be dead before that the letter of the certification be shewed, it is void. M. 8. E. 2.

The Waylifes and Communaltie of C. brought a w^rit of Rescous &c. and shewed all the matter, as appeareth in the case &c. And the defendant said, that at the time of the w^rit purchased, one J. & W. were bailifess

E. 9.

and

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and said that they were excommunicated, and shewed the letter of the Bishop testifying the same, and for that, that the writ is taken by the Bailiffs and Communaltie without naming any person by proper name, and the letter of the Bishop proneth not for what cause the plaintiff nor any of them are excommunicated &c. the defendant was awarded to answer over &c. Item Kanc. M. 30. E. 3.

In Trespas the defendant sayd that the plaintiff shal not be answered for that, that he is excommunicated, and shewed the letter of the Bishop of S. testifying the same which was read &c. Quare if he haue a letter of absolution, if this writ shall abate or no, it is said that it shall not abate. But the iudgement shalbe that the defendant shall go to God, & the plaintiff shal not be amerced: but of vtautie otherwise is, as it is thought: for there the writ shall abate. M. 7. R. 2.

Assise brought by a Gardine of an Hospital, against the Archbishop of C. and W. D. and they alleged that the plaintiff is excommunicated, & shewed a letter of the same Archbishop which proneth that he is excommunicated at the instance of W. D. & for that, that W. D. and the Archbishop are parties to the Assise, they were charged to answer over. M. 8. E. 3.

¶ A writ of Excommunicato deliberando.

R Ex venerabili &c. Episcopo salutem. Ostensum
est nobis ex parte VV. qd' cum ad denunciac
vestram ipsum per Vic' nostrum L. tanq; excom
muni-

municatum clausos ecclesiæ contempnentem, præcipimus iusticæ, Et idem in sub causione. idoneum absolutionis beneficium I. petierit vos ipsum contra iusticiam ad hoc admittere recusatis. Et ideo vobis mandamus, quod ipsum VV. cum cautione huiusmodi absoluatis, alioquin quod nostri est in hac parte exequemur &c.

¶ Aliter.

REx Vicecomi salutem, cum A. de H. quem ad denunciationem Episcopi venerabilis &c. tanquam excommunicatum per corpus suum, secundum consuetudinem Anglie per te iustificari præcipimus, donec sancte Ecclesiæ, tam de contemptu, quam de iniuria ei illata ab eo esset satisfactæ, & iam ab Episcopo ipso absolutionis beneficium in forma iuris meruerit optinere, sicut idem Episcopus per literas suas patentes nobis significauit. Tibi præcipimus, quod ipsum A. a præsona, qua detinetur, si ea occasione & non alia detineatur in eadem, sine dilatione deliberari facias, Teste &c.

This writ is as a Justices, and if the shes wife make not execution of this writ, he shal haue Sicut alias and Pluries And know ye, that when a man hath continued in sentence by xl. dayes, and the Bishop hath sent hys writ to the kinges court, that he wil not be reconciled by the order of holy Church, the king shall send to the shirife that he be taken, & put in præson, vntill such time, as he wil be obedient againe to the law of the holly Church. But if the excommunge (after that he be in præson) offer sufficiët paynme, to be vnder the tuicion of holy Church, if the Bishop refuse such satisfaction, he shall

C.ij. haue

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haue this w^rit to be deliuered out of prisone.

¶ A w^rit of Iuris vtrum:

REx Vicec' N. salutem, Si A. persona ecclesiæde B. vel sic, si B. Prior eccl^{ie} beatæ Mariæ de L. persona ecclesiæ de B. fecer^r te &c. tunc sum^m &c. xij. liberos &c. de vicinæ de C. quod sint coram Iustic' nostris ad pri^m ass. &c. vel coram Iustic' nostris apud VV. tali die parati sacram^m recogn^r vtrū vnum mesuag. cum pertiñ in C. sit libera eleemosina pertiñ ad eccliam ipsius A. de B. vel ipsius Prioris de B. aut laicum feod' I. vel sic, vtrum sit liber eleemosina pertiñ ad eccl^{ie}, vel ad capellā, aut &c. & interim mesuag. illud videant, & nomina eorū imbreuiari fac^r, & sum^m per bonos sum^m præd' I. qui mesuag. illud tenet, quod tunc sit ibi auditurus illam recogn^r, & habeas ibi sum^m, & hoc breue, Teste &c.

This w^ritte ipeth, wher the right of any Church is alyened and holden in lay fæ, or translated in the possession of any other Church, and if the alyeno^r die, then his successo^r shal haue the said w^rit. And know ye that no man which hath couent or couent seale may maintain this w^rit. But a w^rit of Entre sine assensu Capituli, of the alyenation made in time of his predecessor, as appeareth clerely by a ple^r, in Ann 15. E. 3. Where the gardein of the Hospital of S. p^raied in aide of þ Bishop of S. & had no aide, because that the Hospital hath couent seale. And know ye, that no man may use a w^rit of Vtrum, if he be not named Parson. But now by the Statute of E. the 3. Ann 14. ca. 16. which begyneth, Item est assent & estably, q Vicars, gardeines del chappels, Prouostes de Chaunteries perpetuas, pur-

purront vser eest briefe de Vtrum des terres ou tene-
ments &c. And also I. of B. gardeine of the
Hospital of S. brougght a Writ of Vtrum the
same yere, and was maintained though that
the Statute aforesaid maketh no mencion of
Gardeins of hospitals, but that was mayn-
teyned, because it was in like case. And
know ye, that the statut of West. 2. cap. 24.
which beginneth. In quibus casibus conceditur
breue in Canc', in whiche statut is conteyned
this clause, Eode modo sicut concedit' b're Vtrum
aliquid tenementum sit libera eleemosina alicuius
ecclesie, vel laicu feodium tale, de cetero fiat b're &c.
And this writ was not graunted but there,
where the almes of any church was transla-
ted into lay fee. Now it is ordayned in the
foresaid Statut of West. 2. that it shalbe gra-
nted aswell there where it is translated into
the possession of any other Church, as there
where it is translated into lay fee. And the
proces is such in this writ, Summons & Re-
summons against the party. And in Assise of
Mortdauncester, & against the Jurors, Summons,
Habeas corp, & Distres. And in this writ shal-
be geuen the same dates, as are geuen in ass-
ise of Darreine presentment, & Quare impedit, as
it appeareth by the statut of Marlebridg. ca. 22
Know ye, that a recovery in Assise against
the plaintife selfe, is no barre; for that, that
this is a good writ of right, & p'ple is not but
to the Jurie, otherwise is, if he had pleaded
the estate of the plaintife selfe. B. 19. B. 2.
If the tenant plead a recovery in a Cessauit,
that is no barre, for that, that the right is

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to be tried, but he shall conclude: and so, lay
fee. C. 7. B. 4.

Know ye, that if a man recover in a writ of
Right against a Parson, in which piee he
hath not praied in aide of his patron, in this
case his successor shall haue a Iuris vtrum, and
the recovery in the writ of Right shall not
barre him. P. 8. C. 3.

In a Iuris vtrum brought by a Parson of a
chappell, the writ was mainteyned for hym
for that, that he tooke his title by present-
ment & institution, as a Parson of a church.
B. 8. C. 3.

A writ of VVast.

Rex Vic, salutem, Si A. fecerit &c. tunc sum &c.
Rostensur, quare cum de communi consilio regni
nostrri Angliae prouisum sit, quod non liceat alicui
vastum, venditionem, seu destructionem facere de
terrulis, domibus, boscis, seu gardinis sibi dimissis ad
terminum vite sue vel annorum, idem B. de domi-
bus, boscis, & gardinis, vel sic, de domibus, boscis,
& gardinis in N. quae A. ei dimisit ad terminum an-
norum fecit vastum, venditionem, & distractio-
nem ad exhaerationem ipsius A. contra formana
prouisionis predict, & habeas ibi &c. Teste &c.

Eodem modo fiat ad terminum vite, vel per legem
Anglie, vel aliquo modo mutatis mutandis.

This writ lieth, where tenant for terme of
lyfe, or tenant in dower, or tenant by the
curtesie, or Gardein in chualtrie, or tenant
for terme of yerres, maketh wast, he in the re-
uersion shall haue this writ, where by the
common law they had but a Prohibition of
wast. And this writ is given by the statut
of

of Westm 2. cap. 14. And in the same statut
Proces is such, Summon, Attachment, &
Distres. And if the partie come not at the
distresse, then shalbe commaunded to the shi-
rike that he inquire of the wast, & if the wast
be found by the inquisition of the sayd En-
quest, it shalbe returned, and the partie shall
recouer treble damages, and the Enquest
shall geue but single damages, and the court
shall treble them, & also he shal loose the place
wasted. And that is geuen by the statut of
Glouc cap. 5. Which thus beginneth, Pur-
view esteement, que si home &c. And also
the same statute will, that if any gardayne
make wast, he shal loose the warde, but if the
loosing of the warde amount not to as much
in value as the wast done, then thinfant at
his ful age shal haue the said wryt of wast &
recouer his damages for the remnant. Also
in case that the tenant for terme of lyfe, or of
other persons lyues, make wast and let ouer
his estate, then he in the reuersion shall haue
this wryt of wast against hym to whom the
tenant for terme of life, or of other persons
lyues, let his estate, and he shal answer of
wast made in his owne time, for he taketh
the lande in such degree, as it was in tyme
that the lesser let his estate, but otherwile is
in case the tenant in dower, or by the curtesie
let ouer their estates, and they to whom the
tenements are letted, do make wast, he in the
reuersion shall haue a wryt of wast agaynst
those tenants in dower, or by the curtesie,
and not agaynst the lesser, for none may bee
called

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called tenant in dower, or by the curtesie, but the same tenants in dower, or by the curte-
sie. And it is said, that in case the tenant for
terme of lyfe make wast, and surrender hys
estate to him in the reversion, and he doth
accept it, and manure the land after, hee shal
never haue an action of wast, for that he was
not constrained by the law to receiue or take
the land: the same law is of the other afore-
said tenants. And know ye, that if land be
letten to a woman sole, & she taketh a hus-
band, & the husband maketh wast and dyeth,
the wife shall aunswere of the wast, & loose
the land, and yelde damages if the wast be
found, for that, that it was her folly that she
would take such a husband that would make
wast. But otherwise is, where landes are
letten to a man & his wife for terme of their
lyues, and the husband maketh wast & dieth,
the wife shal not aunswere for þ wast made
after his death, for this was the folie of the
lessoꝝ which letteþ the land to the husband
and the wyfe. The which wife shal not be
charged of wast made in time of her husband.
And know ye, that if the tenant for terme of
lyfe be disseised, and the disseisoꝝ make wast,
and the tenant for terme of lyfe do recover by
Assise, & such matter found by the enquest, in
a wȝit of wast, he in the reversion shall recov-
erer of the tenant for terme of lyfe damages,
for the tenant for terme of lyfe recovered
damages against the disseisoꝝ, hauing regard
to the wast made. And if the Gardein make
wast, then shalbe done, as is contayned in
Magna

Magna charta ca. 5. Custos autem &c. But there where the king selleth or geueth the warde of lands or tenements of any infant wythin age to any man of the same seigniorie, and the gardeine maketh wast, the king wil that he shal loose the warde, and shalbe geuen to two lawfull men of the same seigniorie. Also by the new statut of E. 3. An 14. cap. 12. all such landes which are in the hand of the king, because of a warde, shalbe letter to the next frindes of the infant, to whom the herytage may not descend (if they come hastily into the Chauncerie) after the Diem clausit extreum returned, and there offer to take the said landes, yelding to the king the value, vntill the age of the said heire as another man will yeilde, without fraude or discept, and shal haue a Commission to keepe the said lands and tenements, by good and sufficient suerty, to aunsware to the king, of the value of the warde by the accord of the Chaunceloz & Treasorer, and the heire shal haue an action of wast against them, when he commath at his ful age. And also by the statut of E. 3. An 36. cap. if the Eschetoz haue any such warde, & doth aunsware the king of the issues & maketh wast, the heire shal haue an action of wast, as wel within age as of full age, against the Eschetoz, & shall make fine at the kinges wil. And the friendes of the enfant, as long as he is within age, shal haue þ suit, and thereof aunsware to þ said heire of that, that so shall be recovered, when he commeth to his full age. And also in all cases where

the

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the heire within age may impleade, his next
frinds shalbe receiued to pursue in his name,
as appeareth by the statut of Westm 2.ca. 15
And it is said, that though the heire be of ful
age, and in his lande, yet he shal haue (if hee
will) a w^rit of wast against him that was
Gardein to him or against him, to whom the
Gardein let the warde, & after recover dam-
ages. And know ye, that if the chief Lord
infesse any man of parcell of the same, that is
in his ward, the heire shal haue vllise of No-
uel disseisin mayntenant against the Gardeine
& the tenant, and the Gardeine shal loose the
wardship of the same thing recovered, and of
all the remnant that he holdeth in y name of
the heire for all his life. And that will the
statut of Westm 1.ca. 47. which beginneth
thus, Si gardeine ou chiefe seignior &c. And
know ye that a w^rit of wast shall not be
maintained against the tenant by Elegit, nor
against the tenant by statut Marchant, or
by the statute of the Staple. But if they
make wast, he in the reuersion shall haue a
w^rit of Accompt, and the said tena^rs are ac-
comptable after the debt or damages leuyed.
And know ye against tenant in Mortgage
no w^rit of wast nor accompt is maintenable
because that hee hath fee conditional. And
know ye that by the statut of Westm 2.ca. 22.
which beginneth. Cum duo vel plures re-
neant boscum &c. that if woodes, turbarie, or
fishing be holden in common, of two or three
men, and the one of them make wast, the
other shall haue a w^rit of wast fourmed in
this

maner, Cam A. & B. teneant boscum vel turba-
riam pro indiuiso, & fec' vastum &c. And if the
wast be found, it shalbe in the election of the
defendaunt to take his part that is assygned
of the Shiris in the place wasted, or that he
graunt that hee shall take nothing in such
woodes or turbarie &c. but as his partners
will take. And if he will chuse to take hys
part in a place certaine, the place wasted shal
be to him assigned. And in case that he graut
in the court, that hee shall non take other-
wise then his compaignions will, and after
hee maketh wast, hys felowes shall bryng
the said w^rit, and if hee will take his elec-
tion, as he did in the first w^rit, he shall not
be receyued, for the statute geueth but one
election, and that he hath had, for the which
these pleintifs shal recover the place wasted.

And this w^rit lyeth aswell betwixt them
that holdeth for their iyses, as betwixt
them that holde tointly in fee, and aswell
betwixt them that are in the tenement by
dyuers titles, as by one title if they take the
profites in common, and no man knowing
his severall. As it appeateth Which. 21. E.
3. fol. 1. When any ought to haue Estouers
in any woodes, and the woodes be wasted
and cut downe, then hee shall not haue A-
sise of Nouel disseisin, and that by the statut
of Westm 2. cap. 25. Which begynneth, Quia
non est aliquod breue per quod &c. And if he
be disseised of such Estouers and dyeth, his
heire shall haue a Quod permittat de estouerijs.
And also if the heire bee disturbed to haue
estou-

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estouers maintenanc after the death of hys
father wherof he dyed seised, the heire shal
haue a Quod permissat of estouers in the place
of Assise of Mortdauncester, the wryt is such.

REx Vic' salutem, Præcipe A. quod iuste &c. per-
mittat B. habere rationabil' estouarium suum in
bosco, vel in turbaria, vel in brueri ipsius A. in C.,
quod in eo vel in ea habere debet & solet, ut dic' &c.

And also in case if the heire be disturbed as
before is said, the wryt shal say, quod permit-
tat B. habere rationabile estouarium suum, in bosco
ipfius talis in N. de quo C. pater prædicti B. cuius
haeres ipse est, obiit sefatus in dominico suo ut de-
feodo. And know ye the executors may not
maintaine a wrytte of wast, but it shalbes
maintenable.

It is sayd that a wryt of wast lyeth at
the common law against them whose estates
are made by the law, as against the gardine
of a warde, tenant in dower, and tenant by
the curtesie, and for that in such wryttes it
needeth not to rehearse the statute. M. 12.
B. 4.

If a man do manase or threaten any byles-
leines which are regardant to a manor in a-
nothre Countie, then wher the manor is,
so that they are eloyned and gonne away,
the action of wast shalbee brought in the
Countie wher the manor is, and there shal
the wast be tried, for the wast is all tymes
in the manor, but of trespass, peraduenture
the law is otherwise. C. 9. B. 6.

In a wryt of wast of a house, it is a good
plex to say, that after the lease, the lessour
made

made the house against the wyll of the lessor,
judgement &c. And this is a good ples. H.

49. E. 3.

In wast the plaintife supposeth the wast
to be in dyuers thinges, that is to say, in a
grange, house, and cottage, and dyuers ples
were pleaded, as to the grange and cottage,
as appeareth in the case, and as to the house
he said, that it was feeble at the time of the
lease &c. and the plaintife said that you your
selfe, by this deede indented, which here is,
graunted to repaire and keepe vp the sayde
house, in as good estate and better then they
were, when he them receyued, so is he
bound to repaire and keepe vp the house &c.
judgement if hee shalbe receyued, to say that
the house fell for feeblenes, & it was iudged
that this deede indented, shall not charge
him in this action of wast. H. 48. E. 3.

¶ A writ of Estrepament.

¶ Ex E. de P. salutem. Cum in statuto apud Glo-
cester dudum aedit inter cetera continetur quod
a tempore quo placitum motum fuerit in Civitate
London per breue, tenens non habet potestatem fa-
ciend' vastum vel estrepamentum de tenet, quod est
in demaund' pendente placit', & qđ ead' ordinatio
& stat' in alijs Civitatibus & Burgis, & alibi, per
totum Regnum Anglie obseruētur, ac iam ex graui
querela VV. de T. accepimus, quod licet placitum
pendeat coram Balliuis nostris de S. per paruum
breue nostrum de recto, inter A. petentem & S.
tenentem, de vna bouata terr', prati, bosci, cum
pertinentijs in C. tu tamen vastum & estrepa-
men-

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mentum fecisti , & indies facere non desistis pen-
dente placito prædicto, in ipsius VVill' dispendium
non modicum & grauamen, ac contra formam sta-
tuti & ordinationis prædictorum , placito prædicto
pendente indiscusso. Teste &c.

This writ is in maner a Prohibition, and
lyeth where a man is impleaded by a Præ-
cipe quod reddat, of certain landes or tenementes,
and the demaundant supposeth that the te-
nant will make wast in the landes or tene-
mentes hanging the plee , then hee shall haue
the said writ, as is conteyned in the statute
of Gloucestre cap. 13. which begynneth thus,
Paruicio est ensement que del heure &c. And
if the plee be moued in London, then the de-
maundant shal haue the said writ directed to
the Maior and Schirifs, that they shal cause
the tenementes to be kept, and that no wast
be made in them. In the same maner shal bee
if the plee be moued afore the Justices, then
the demaundant shal haue this writ directed
to the Schirife of the same Countie, where
these tenementes are , to defende the tenant
that he make no wast hanging the plee.

And know ye, that this writ lyeth proper-
ly when a man demaundeth any landes or
tenementes by a Formeden or writ of right ,
where he shall recouer no damages but in
case that he bring a writ, wherein he shal re-
couer damages, then he shall recouer dam-
ages hauing regarde to the wast. And also
in case that he hath recouered by iudgement
in the kinges Court, and the tenaunt after
the iudgement gauen , and afore that the

dec

demaundant be put in possession by the shirke by force of a writ which is called habere fac. seismam, he maketh destruction, then he shall haue attachment against the tenant, to be afore the Justices at a certaine day, to shewe for what cause he made wast, and there shall be mention made in the said writ of the recovery had before. And this writ shal go out of the Roles of the Justices, if it bee not in time of vacation when the Justices are risen, and then it shalbe made in the Chauncery. And the proces is such, Attachment and distresse, & for default of distresse proces of bilaþry.

In Eſtreapement against an infant, hee prayed his age, and was put out for that that it is but in the nature of trespass. In þ same place it is sayd, that proces of bilaþry lyethe not in this action. H. 3. H. 6.

And if a man recouer lande, the which was so wen, and afore execution sued, the tenant hath reaped the corne, and caried it away in this case he that recouered, shall not haue a writ of Eſtreapement, but an action of trespass. H. 28. E. 3.

¶ A writ of De homine replegiando.

Ex vic' N. salutem. Præcipimus tibi quod iuste & fine dilatione repl' fac' A. quem B. cepit, et captu' tenet, vel sic, que tu ipse cepisti & captu' teneas vel quo' B. cepit, & tu ipse captu' teneas ut dic' nisi captu' sit per speciale preceptum nostrum vel capi' Iustic' nostri, vel pro morte hominis vel foresta nostra, vel pro aliquo recto, quare secundum consuetudinem regni nostri Angliae non sit replegiabilis. Ne amplius inde

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clam aud' pro defectu iusticię, Teste &c.

This w̄rit lyeth, wherē a man is impriso-
ned, whic̄h is repleuisable, then he that is
in prison shall haue the sayde w̄ritte dyrec-
ted to the shirif, that he repleuy him whic̄h
is in prison except he be in prison by especiall
commaundement of the king, or of the chiese
Justice, or for the death of a man, or for the
kings forest, or for any other cause (wherē
of he shall not be repleuisable.) And knowe
ye that this w̄rit is a Iustices, & not returna-
ble, but if þ shirif make not repleuin by this
w̄rit, then shall go out a Sicut alias, vel causam
nobis, significes: and yet if he do it not, or if he
may not do it, then shall goe out Cum pluri-
bus vel causam nobis significes, whic̄h shal be re-
turned. And if the shirif make not yet re-
pleuin, then shall there go out A ttachement
against the shirif, directed to the coroners of
the same county, that they shal cause the shi-
rif to be attached, & ouer that, that they shal
make execution of the first w̄rit, and that by
the Statute of Westm i .cap. 15. Pur ceo que les
vic' & auters &c. the shirif, constables noz, baile-
lifes of fee shal repleuin any man that is not
repleuisable: and if he that hath the keeping
of prisons in fee doth otherwise, he shal loose
the bailewike for euer & shal haue impriso-
ment of thre yeres. And he that holdeth these
prisoners (whic̄h are repleuisable) after that
they haue offered sufficient suertie, shall be
greenously amerced against the king.

And knowe ye, that if a man do a trespass
within the forest, for whic̄h he is taken, and put

put in prison and the gardayne of the forest
wil not him repleuin, nor let him to mayn-
prise: a w^rit shall be sent to the shirife of the
place to attache the said gardein, to be before
the king at a certaine day, for to shew wher-
fore hee hath not made repleuin of the sayd
man, and be it contained in the w^rit, that the
shirife call the verdours, and the names of
the maynpernours to make delyuerie to the
sayd verdours, and aunsware the Cire before
the Justices. And that by the Statute of
Edward the third. An 1 Cap. 9. which be-
ginneth. Cum Hugh &c. And know ye that no
man shalbe taken nor imprisoned for vert, or
venison if it be not founde by verdict or en-
dictement: in which two cases he shal let to
maynprise by the wardeine of the office, or
otherwise by w^rit, or the gardeine shalbe at-
tached as is aforesaid. And the fourme how
a man may be indisted for trespass of vert or
venison, is contained in the Statute, which is
called Additio de foresta made in the time of
king Edward, sonne of king Henry. An 34.
And know ye, that for trespass in parkes a
w^rit of trespass is giuen to the party, to reco-
uer his damages, or els the king shall haue y
suit after the yere and the day, as is mentio-
ned in the Statute of Westm 1. cap. 20. which
beginneth. Puruieu est enlement que malefactors
in parkes ou en viuers &c.

¶ A writ of Replegiare de aueris.

¶ Ex vic salut. Precipiimus tibi quod iuste &c. re-
pleg. fac' A, de R, aueria sua, que B. de VV. cepit
¶ f. ii. &

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& iniuste detinet ut dic'. Et postea cum inde iuste deduci facias. Ne amplius inde clamorem audiamus pro defectu iusticie. Teste &c.

IHis w^rit shall go out of the Chauncery, directed to the shirife, that he make deliuerance of the beasts of the tenant which are in name of distresse. And if the shirife serue not the w^rit, then shalbe made as is aforesayde, De homine replegiando. And know ye that in taking of beasts vj. things are necessary, that is to say, very lord, very tenant, seruice b^rehinde, the day of the taking, settyn of the seruices, and within his fee. And know ye that a man is not very tenant vntil he hath attorne^d to the lord by some seruices. And know ye that a man may haue a repleuin, as wel by plaint to the shirife or bailif^s of the frauncie, as by w^rit. And know ye that the statute of Westm^r 2. Cap^r 2. which beginneth. Quia dominus feodorum &c. wil, that if the tenant haue repleuyed his beastes by w^rit in the countie, the lord shall haue a pone out of the Chauncery, dyrected to the shirifes that he remoue the ple^re, which is in the county or in other court, betwixt one such lord, and one such tenant into the kings court, & the pone shall say: Pone loquela que est in com^r tuo per breue nostrum, inter I. & K. de aueris ipsius I. cap^ris & iniuste detentis &c. And also the defendant may remoue, but not without reasonable cause as it appeareth more plainly by the Register. But if the ple^re be without w^rit in countie or in court Baron, then may the plaintife remoue the ple^re into the common banke

banke by the Recordari facias. And in the same maner may the defendant wyth reasonable cause. And knowe yee, that if the Lord that distrained, do distraine another time after þ that the shirife hath made repleuin by writ or without writ, as well afore the pone or the recordare as after, and for the same thing, for which he tooke the distresse, afore the plaintife may haue a writ directed to the shirife for to attache the Lord for to be before the Justices of the common banke at a certayne day to aunswere, wherfore he tooke the second distresse for the same cause, if the distresse be made after the pone or after the recordare, then the writ shal command the shirife, that he haue the bodie of the Lord before him and his coroners at his next countie, & if the Lord be conuictid of the seconde distresse taken for the same cause, by the same baillifes whitch made the repleuin, or by other good people of the same county, then he shall be amerced so greeuouslye that his chastisement, in casu consimili timorem alijs prebeat taliter delinquentibus exemplum. And this writt is maintayned by the statute of Marl Cap 3. which beginneth, Ne quis maior aut minor. And the proces is in this writt of pone, somons, Attachmet, & distress. And for default of distress, proces of blaþye against the defendant. And that appeareth in a marueilous case that the Lord shal haue the pone, for by the common law, the defendant shal not haue the pone, and the Lord in this case appeareth to be defendant, when þ tenant hath brought

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against him a repleuin, but it is not so here, for as much as the Lord distreined his tenāt, for the seruices and suits, which to him were due. And therefore it shalbe intended that he is demaundant, and not defendant. And this clause shall bee put in the pone. Quia talis distinxit in fodo suo pro seruicijs sibi debiliſ &c.

In repleuin it is a good plee for the defendant to say, that the propertie of the beaſtſ, was in one ſuch and not in the playntife. H. 20. H. 6.

If the lord diſtraine his tenant, notwithstandinge that the tenant haue agayne hys beaſtſ, hee ſhall haue a repleuyn, for that that hee maye not haue an acyon of Trespaſſe. And it is a good plee to ſay, that the playntife hath nothing but in common P. 33. E. 3.

And in a repleuin brought in by dyuers persons, the defendant may ſay, that the propertie is in one of theſe plaintiſſ & not to al. And if a man take a false wriſt of repleuin, by the which the defendant hath returne, the plaintife ſhal haue a new repleuin, and ſo he may haue of as many false wriſtſ as he will, for that that h̄ Statute doth remedy but one ſuyt onely. P. 1. H. 6.

If a man in a repleuin aduoyſe the taking of the diſtreſſe &c. & the diſtreſſe is corne in the ſheaues, that is no good aduoyſy, for it is ſaid that a man may not diſtreine wheat in ſheaues, ne other maner of corne except that they be in a cart, for a man may not diſtreine in

in shokes, for the losse that may followe in scattering of the same corne &c. And so it is of money, if it bee not in a bagge sealed, for that, that one peny may not be knowne by the other, and that appeareth in trespass. H. 21. E. 3.

He that is a straunger to aduowry shall charge the aduowant, to aduowe vpon him though he claime not by him, vpon whom the aduowry is made, if he may lay seisin by the plaintifes hands, for if the aduowant accept him for his tenant though that he come in by disseisin or otherwise he shall aduowe vpon him. And it is said in the same place if þ bay=life make cognisance and the Lord ioine to him, the plaintife shall recover damages against the lord. And if the lord aduow for the same cause, the bailife is maintenanc out of the court. P. 18. E. 3.

If a rent be graunted to me, and another, & my fellowe releaseth to me, I shall make aduowry for al the rent, & yet I am by seueral titles, but it is conuenient þ I shewe the release in mine aduowry. E. 33. E. 3.

Hee that hath estate of one copertener, shal aduow for a rent graunted vpon þ pur=party wout deede, & shewe the matter in his aduowry whose estate he hath. T. 3. E. 3.

If the mesne be foriudged, the Lord shall aduowe vpon the tenant for the arrerages in the meane time afore the foriudget &c. for he may not aduowe vpon the mesne, in so much that the mesnalty is extinct. H. 7. E. 3.

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¶ A writ of non admittas.

REx vic salutem. Cum per breue nostrum tibi p-cepim⁹, quod aueria A. que B. cepit & iniuste detinet, vt dic⁹, eidē A. repl⁹ fec⁹, vel causam nobis significes, quare mandata nostra tibi inde directa exequi non potuisti aut noluisti, ac ballui C. de VV. quibus returnum breuis nostri tibi inde directi habere fecisti, nihil inde facere curauerunt, prout nobis significasti, precipimus tibi quod propter libertatem prædictam non omittas quin eam ingrediaris, & auer⁹ prædict⁹ eidem A. fine dilac⁹ repl⁹ facias eodem tenore brevis nostri inde tibi directi. Teste &c.

This writ lieth where any writ is directed to the shirife for to do the kinges cōaundement. And the shirife doth retoyne the writ, and sayeth that hee hath sent to the bailifes of the fraunchise, whiche haue retourne of writtes, within whiche fraunchise the writ shal be serued, and the bailife serueth not the writte, then the partie plaintife shall haue the said writ directed to the shirife (Quod non omittat &c. quin exequatur preceptum domini regis &c.) And also a man may haue auerment as well against the bailife of the fraunchise, whiche hath whole retoyne of the kings writ, as against the shirife, as wel of smal issues so returned as in other cases, as it appeareth by the statute of E. 3. a. 1. c. 5. And as it is cētained in the statute of West. 2. cap. 39. in the mids, whiche beginneth: Multocies etiā &c. that the shirife shal warne the bailife, that he be afore the Justice at a certaine day, as is cētained in the kings writ, and if he come at þ day limited, and him acquite, that the shirife

to him directed not any precept, then the shirife shalbe condemned to the lord of the frāchise, and yelde damages to the party greeued. And if the bailif come not at the day assinged, or him acquite, then al the writs Iudicialees, whiche shal go out of the banke to the shirife (during the iame plee) shalbe called Non omittas &c. And the shirife shal make execusion of all the writs during the plee. And in this case the lord shall loose the fraunchise hanging the plee. And know ye, that if the plee of VVithernam be in the county, and the shirife sende to the bailife of the franchise for to repleuin the beastes or goods, whiche are taken in the name of distres, and the bailyfe will do nothing, then the shirife of his office may enter in the fraunchise without writ. As appeareth in the statute of Marl' ca. 2 i. which beginneth: Prouisum est etiam, quod si aueria &c. And also the statute of West. i. cap. 17. which beginneth: Puruieu est ensement que nul &c. And therefore it is not holden in the one case ne in the other &c.

¶ A writ of withernam.

REx vic' salutem: Cum pluries tibi precepimus qđ iustē et sine dilatione replfac' A. aueria sua, quæ B. cepit & iniustē detinet (vt dicit) vel causam nobis significares quare mandata nostra tibi inde directa exequi noluisti aut non potuisti, ac tu nobis signifi- caueris quod postquam predictus B. auer̄ predicti A. cepit in com̄ tuo, et ea a comitatu illo fugauit de com̄ in com̄, ita quod inueniri non potuerunt. Nos malicie predicti B. obuiare volentes in hac parte,
tibi

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tibi precipimus quod aueria praedicti B. in balliu²
tua capias in VVithernam, & ea detineas donec au-
eria p^{re}ced^t A. repl^o possis iuxta tenorem mandatorum
n^orum inde tibi directorum, Teste &c.

This w^rit ithreth wher^e the lord distreineth
his tenant for certaine seruices, or suits,
and the lord doth chasse the distres to a for-
telet, or to a castell, or out of the same county
wher^e the distresse was taken, into another
county, or otherwise, so that the shirife may
not haue the sight of the beastes, for to make
repleuin, or in i^{ch} lyke maner as appeareth
by the Register. And if the tenant bring his
w^rit of Repleuin, Sicut alias & pluries, and the
shirife retourne that he may not haue p^{re}sight
of the distresse, for that, that the distresse is
chased to a fortelet, or castell, or out of one
cou^tie into another, then the said tenant shal
haue the said w^rit &c. And know ye that by
the statute of Westmⁱ i. cap. 17. wh^{ch} begin-
neth: Puruieu est enslement, que nul desormes &c.
that if any enclose the beast, wh^{ch} he hath
takeⁿ in name of distres, in a fortelet or castel,
that the shirife may do as is contained in the
same statute, at the suit of the plaintife, that
is to say, the shirife shall go to the castell, or
fortlet, and there warne the Lord, or hym
that tooke the beastes, to make deliuerance, &
if he will not make deliuerance, then he shal
abate the castel or fortelet for the trespass and
despite done to the king. And know ye, that
if the distres be taken within a fraanchise, &
the baylfe of the fraanchise will not redely-
uer, then the shirife after complaynte to him
made,

made, may deliuer the distresse by his officer, As it appeareth in the statute of Marlcap. 21. which beginneth: Prouisum est etiam, quod aueria &c. And the proces is in this w^tit, as in the Pone.

Know ye, that in a Repleuin at the Pluries it was returned, aueria elongata sunt, and the defendant appeared, and notwithstanding a VVithernam was awarded, and for that, that it was awarded erroneously, the Justices awarded a Supersedeas for the defendant, to the shirife to surcease, and if he haue taken the beastes of the defendant that he them restore, and the shirife returned, that before the supersedeas to him deliuered, he hath deliuered the beastes of the defendant to the plaintife. And that the plaintife the hath esloined, þ he may not them restore to the defendant. And the defendant appeareth, & pleadeth to the original that he tooke them not, & praileth a withernā against the plaintife. And the court said, þ if the plaintife wil not wage deliuerāce, that he shal haue it. M.7. E.4. 15.

In a Repleuin after answry, the plaintife is nonsuit, & the defendant sueth a w^tit de Retorno habendo, and the shirife returned, that they were esloined. In this case he shall not haue a VVithernam before þ he hath sued a scire facias against his pledges. So know yee, how a withernā shalbe awarded against the plaintife. C.7. R.2.

Note ye that the shirife may award a withernam in his countie where the repleuin is sued by plaint, for otherwise it shalbe in vaine
to

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to sue a replevin before him, if hee may not make proces. M. 2. 1. M. 6. M. 9. E. 4. 48.

Know ye, if the beastes of the defendant be taken in VVithernam, the shirife ought not to deliuer them to the playntife, but ought to kepe them vntil the defendant wil deliuer the other beastes first taken. For the wryt will Quod capias &c. & detineas quousque &c. And þ is to be entended in the common bank, otherwysse is in the kings bench. And so know the diuersitie. M. 2. M. 4. 9.

The shirife may take xx. Ore in VVithernam, notwithstanding the replevin be but of one Ore. And if þ replevin be of pots & pans, he may take in Withernam xx. Ore and other goods. M. 2. 2. M. 6. M. 3. 1. E. 3.

¶ A writ of Libertate probanda.

REx vic' salutem. Monstrauit nobis A. quod cum ipse liber homo sit, & paraſ libertatem tuam probare, B. clamans eum natuum suum vexat eum iuste. Et ideo tibi precipimus, quod si prædictus A. fecerit te securi de libertate sua probanda, tunc ponas loquclam illam coram Iustic' nostris ad primam afflcam, cum in partes illas venerint, quia huiusmodi probatio non pertinet ad te capiend', & interim eidem A. pacem inde haberi fac', & dic' præfaſ B. q̄ sit ibi loquclam suam versus prædictum A. inde p-secutur si voluerit. Et habeas ibi hoc breue &c.

¶ A writ de Natiuo habendo.

REx vic' salutem. Precipimus tibi quod iuste, & si ne dilatione habere fac' A. natuum, cum omnibus cati suis, & tota sequela sua vbiq̄ue inuentus fuerit

fuerit in balltua, nisi sit in dñico nostro qui fugit de terra sua post coronationem domini H. R. prog. nostri. Et prohibemus tibi super forisfact, ne quis cū iniuste detineat. Teste &c.

Aliter si manserit in dominico per minus tempus, quā per vnum annum & vnum diem, tunc fiat pro domino natiui hoc breue.

R Ex vic' salutem. Precipimus tibi quod nisi A. quē B. clamat natuum suum in com̄ tuo per breue nostrum manserit in dominico nostro de N. per vnum annum & vnum diem sine calumnia non remaneat loquela prædicta in comit tuo, ed quod māserit in dñico nostro per minus tempus &c.

These w̄rittes lye for the Lord, whēn hyg niefe is fled from him, then the Lord shall haue these directed to the shirif, in what countēty soeuer the niefe is abiding or dwelling, þe cause the Lord to haue his niefe with all his goods. And know ye that in such w̄rits mo niefes may not be demaunded then two. But mo niefes may bring the w̄rit of Libertate probanda, and that is in fauour of libertie. And if the niefe purchase his w̄rit of Libertate probāda before that the Lord purchase his Pone, he shalbe in peace vnto the next assise of Justices in Eire: but if the Lord purchase his pone before the niefe purchase his w̄rit of Libertate probanda, then the w̄rit of Libertate probanda is nothing worth for the niefe. And in this w̄rit it behoueth, that the lord proue, that he was seyed of him, or of his blode. And if the lord can proue no seisure of any of his blode, he shal winne nothing, if the niefe haue not knowledged him selfe, in Court of recordē,

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record, to be his villeine. And know ye, that if two coparceners bring a writ of Natuuo habendo, and the one is nonsuit, The suite of both shall faile, and that is in fauour of libertie.

And know ye by the Statute of E. 3. Añ 23 De prouis. victualium ca. 18. that notwithstanding the adiournemēt in Eire in fauor of niefs, for delaying their lordes of their actio against such niefs, the lordes shalbe received to alledge exceptions of villenage against their persons in al writs, where that the said writ of Libertate probanda is purchased by disceit, & the lordes may seise þ bodies of those villeins as wel as they may afore such writs of Libertate probanda were ordayned or purchased. And looke the Statute of Ric. the 2. ca. 6. Añ 2. which beginneth. Al greuous plaints que touchont lestat de villeins &c.

And know ye, that if the villeine of any lord haue dwelled in auncient demesne of the king, by the space of a yere and a day, without scander of the Lord or claime, he may not haue him by no writ out of þ said auncient demesne. But it is said, if he be found out of auncient demesne, þ lord may seise him as his villein. And know ye þ this writ is vicountiel, & not returnable, but it may be remoued by a Pone out of the County, into the common bank, as it is said. And know ye in case þ the lord be not able to distraine his villaines, to cause them make & do their seruices, he may haue a bill directed to the shirife, for to be appling to him there, wher he is not sufficient &c.

¶A

¶ A writ de Moderata misericordia.

¶ Ex balliuis A.de I. (vel tali domiñ, vel vic') salu-
tem. Monstrauit nobis A, q̄ cum ipse nuper a-
merciend' esset in cur̄ tua de N. vel in cur̄ prædicti
domini tui de I. p̄ modico delicto in q̄ incidit, ac tu
(vel vos) ab eo grauem exigis (vel exigitis) redempti-
onem, contra tenore Magnæ carte de libertatibus
Angl, in qua contineñ quod nullus liber homo a-
merciet, nisi scdm quātitatē delicti, & hoc saluo cō-
teñto suo, & villanis saluo wainagio suo. Et ideo ti-
bi vel vobis præcipimus quod a præfato. A modera-
tam capias (vel capitatis) misericordiam, secund' quā-
titatem delicti illi⁹, ne clamor ad nos inde peruen-
at iteratus. Teste &c.

This writ lyeth in case where a man is a-
merced in Countie or court baron, moze
greuously then he ought to be amerced, in ha-
ving no regarde to the quantitie of the tres-
pas, then he shal haue the sayd writte to the
shirife, if it be in County, or to the bailife, if
the plaint be in court Baron, that they shall
not amerce him ouer greuously, but after the
quātity of the trespass. And if they moderate
not the amerciament by this writ, then shall
there go out a Sicut alias, vel causam nobis sig-
nifies. And know ye: that the Register in this
case geueth no other proces after the Sicut a-
lias, but a Homons. Et ideo quare. And if they
do nothing by this writ, then shall go an at-
tachement out of the Chauncery against thē,
that they be before the Justices at a certaine
day, and after the attachmet̄ returned, if they
come not: then shal go out a Distres, & for de-
fault of a Distres, proces of outlaþy.

¶ And

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And know ye that no man shalbe amerced by the law, but hauing regarde to the quantity of his trespass. A marchant sauving his marchandise, and a villeine sauving his gaynage, hauing regarde to the quantitye or the trespass, as appeareth in Magna carta cap. 14. Nullus liber homo amercietur &c. & in West. 2. cap. 6. Which beginneth. Et nul citye, borough, ne villein, ne nul home amercie sans reasonable encheson &c.

q A writ de Transgressione.

REx vic' salutem. Si A. fecerit &c. tūc pone B. &c.
quod sit &c. tali die ostēn quare vi & armis in ipsum A. apud N. insultum fecit, & ipsum verberauit, vulnerauit, & male tractauit. Et alia enormia ei intulit, ad graue dampnum ipsius A. & cont pacē nostram. Et habeas &c. Teste &c.

Aliter de querera. Ostensū quare in querera ipsius A. apud F. foderunt, & petras ad valentiam xx. li. sine licentia & voluntate sua ceperunt &c.

Aliter de columbis. Ostens. quare columbare ipsius A. apud T. noctānē fregit, & columbas suas in eodem colubari existentes malitiose interfecit, per q idem A. volatum eiusd' columbaris totaliter amisit, & alia enormia &c.

This writ lyeth where y Trespas is made or done to any man or woman, and supposed that the Trespas is done with force and armes. Then he to whom the Trespas was made, shall haue his writ, & in this writ he shal recover damage.

And note ye, that the statute of Westm 1. cap 37. Which beginneth. Pur ceo que ascungens

gents de la terre &c. a man shall haue a writ of Attaint in plee of London, or freehold, or of a thinge that toucheth freehold. And now by þ new statuts of an 1 E.3. cap.6. Attaynts shall be graunted in writs of Trespas as wel vpon the damages, as vpon the principall. And the Chancelloz hath power to graunt this writ without ipeaking to the Kinge. And that the Justices in no case of attaint shall let for to take Attaints of the damma- ges not payed. And by the statute made An. 5. E.3. ca. 7. in the ende, A man shall haue a writ of Attaint in plee of Trespas, moued before the Justices without writ if the da- mages adiudged, passe xl.s. And after by the statute of the same kinge Anno 28. chap. 8. A writ of Attaint shall be graunted as wel vp- on a bill of Trespas, as by a writ of Tres- pas without hauing regard to the quantitie of the damages. And after by the statute of the same kinge Anno 34. chap. 7. A man may haue Attaint as wel of plee reall, as of plee personali. And that the writ of Attaint be graunted to poore men, that will sweare they haue nothing, wherof they may make fine, sauing their countenance, they shal haue it without fine, as all other shall haue it for the fine.

And know yee, that a writ of Trespas ne Attaint shall not be mainteyned, if the da- mages passe not xl.s. before Justices. And no shirife shall hold plee in countie, if the da- mages passe xl.s. And that is ordained by the Statute of Glocest. chap. 8. which beginneth:

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Purview est ensement que viconts &c. And this
Writ shall not be remoued into the common
bank with caule nor without cause. But if
the plee be in county, and without Writ, it
may be remoued afore the Justices, because
þ the plee toucheth freehold, or in case that þ
defendant do clayme the plaintife to be his
villein, & such like cases. And also this writ
hath bene of Record by such cause: that the
ground where the trees grew, was the free-
hold, contra quem clamor est: and the proces is
in this writ, Attachment & Distres, and for
default of Distres, thre Capias and an Ex-
igent proclaimed in five counties.

In a Trespas it was said: If a lease be
made to a man for terme of yeres, & after the
terme is expired, and the lesse holdeth him
in, & the lessor entreteth not: that for the occu-
pation after the terme, this writ of Trespas
will not lie. T. 22. E. 4. 13

It was said in Trespas &c. that for the
misuser of a thing taken for damage fesant, a
man shalbe charged as a Trespassor from the
beginning: & so it is of a distres taken, if it be
misused &c. And in this case if þ defendant wil
justifie for damage fesant, & the plaintif shew
how he hath misused that: & so of his owne
wrong, that is no good replication: But he
shall shew the misuser & no moze: for the
law in it selfe ought to seeke that out. B.
22. E. 4. 47

In Trespas a diversitie was put: when a
man is impleaded for not dooinge of a thing
that he ought to do: and when he hath done a
thing

thing that he ought not to do: for in the first case he thinketh that he shal not be punished by action of trespass, Quare vi & armis, but an action vpon the case lyeth: but in the other case he shall be punished Quare vi & armis. Quare tamen. M. 12. H. 4.

In Trespas, quare filium & haeredem abdux-
it &c. and for that, that he shewed not that
the mariage to him belongeth, exception was
taken: but for all that (as it is thought) it
is not allowable: for it may be, that the aun-
cestor of the Infant held of the plaintife by
knightes service: and yet he shall not haue p
mariage, for he may hold of another by Pri-
orite. H. 12. H. 6.

In Trespas against thre, they pleaded
not giltie, and found giltie, the one dieth af-
ter the enquest taken: yet the plaintife had
iudgement to recouer against the other that
were aliu. C. 2. H. 6.

In a wyt of Trespas of beastes taken, the
defendant iustified as bailife for services be-
hind &c. And the plaintife said, that he was
not bailif &c. & whereof they were at issue: p
plaintif shewed in evidence, how he toke them
in claiming them as heriots for him selfe.
Thorp. Though that the Lord after agrees
to his taking for seruices due to the lord, yet
he may not be said his bailif. But if he take
them without commaundement for seruices
due to the lord, & the lord after agrees to the
taking, he shalbe iudged as bailif, though p
he was not his bailife in no place afore the
taking: & so know the diuersitie. H. 7. H. 4.

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In Trespas of two Charters taken away, the defendant pleded not gilty, & was found gilty to the damages of xi.s. And was pleaded in arrest of iudgment there, that the plaintiff shewed not in his declaration, how much land was comprised in the charters, & not allowed. And diuersitie was put betwixt this action, & a writ of Detinue of Charters: for in Detinue he demandeth the charters, & there he ought to shew p certaintie of the land: for if the charters be burned, he shall recover damages after the value of the land comprised &c. But in this action he demandeth not the charters, but is to punish the defendant for the taking away, and the plaintiff hath iudgment to recover. And note this good diuersitie. T.19. E.3.

A writ of Disceit.

REx vicecomiti salutem. Si A.fecerit &c. tunc poñ B.&c. q̄ sit &c. ad respondend tam nobis q̄ prefat A. quare p quodd̄ breue n̄m p finem C. solid ad opus n̄m p breue p̄d̄ capiendor̄ nomine p̄dict̄ A. hoc penitus ignorantis fraudulenter et malitiose in Cancellaria nostra impetrauit in deceptionem Curia nostra, et ad graue dampnum ipsius A. vt dic'. Et habeas ibi nomina pleg. et hoc breue. Teste &c.

And when it is Judiciall, it is such.

REx vicecomiti salutem. Ex parte A. nobis est ostensum q̄ B. in curia &c. falso et in deceptione ius d̄ curi n̄r̄ recuperauit seisinam suam versus eum &c.

de tribus mesuag. cum ptiñ in E. vt ius ipsius B. per defaltam ipsius A. cum idem A. nunquam sum fuit secundum legem terræ, essendi coram Iustic' nris a-pud westm. &c. ad respondend' pæd' B. de placito pæd: nec pædicta mesuag. nunquam capta fuerit in manum nram ob aliquam defaltam ipsius A. nec i-dem A. iteratò sum fuit eslendi &c. apud westm, ad respondendum pæd' B. tam de pædicto principali placito, quām de defalta pædicta, prout mos est in regno nostro. Et ideo tibi pæcipimus, quod dis-tringas A et B primos sum, per quos B. vic' n com pædicti mand' Iustic' nostris apud w. quod sum p-dict' A. essendi &c. apud w. &c. ad rñdendū pædicē B. de placito pædicto. Et etiam L. vnum per cuius visum et quorundam T S. H et I. qui mand' Iustic' nris apud w. q pædicta tertia pars capta fu-it in manum nram, et etiam w. vnum de scdis sum, per quem vic' mand' Iustic' nostris apud westm q A. sum fuit eslendi &c. apud westmonast. &c. ad respond' pæd' B. tam de principali placito, quām de pædicta defalta, et omnes terras &c. octabis Purificat ad certificandum pædictis Iusticiarijs nostris, simul cum pædict' A. T. S. H. et I. de sum in capti-one pædict, ad audiend' iuditium suū de pluri defaltis. Pæcipimus etiam tibi, quod dist' pædictum G. nuper vicecomitem comitat' pædicti, et omnes ter-ras, res, redditus &c. quod sit &c. ad pæfatum ter-minum ad certificandum simul &c. et ad audiendū iuditium suum &c. Et tu ipse tunc sis ibidem in p-pria persona tua ad certificandū pæfatis Iusticia nostris simul &c. Et habeas &c. Teste &c.

This writ of Disceit is some times ori-ginal, and some times iudicall. But when it is original, then it lyeth in case where any

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disceit is made to a man by another, by which disceit he may be disherited, or otherwise evill intreated, as it appeareth by the Register, then he that is in such maner disceiued, shall haue the said writ. And the Proces is, Attachement and Distresse, vntil the partie appeare. And when it is Iudicall, then it lyeth out of the roilles of Record. As in case where a Scire facias is sent to the shirife, that he warne a man to be before the Justices at a certeyne day, and the Shirife retourne the writ serued, where the sayd man was not warned, by which disceit the partie that sueth the Scire facias recouereth, then the party which ought to haue bene warned, shall haue the said writ against the partie which hath recouered directed to the shirife of the same countie. And also it lyeth in case where a Praecepte quod reddit is brought against a man: By force of which writ he shall be summoned to be before the Justices at a certaine day, & the shirife hath returned, that he was sommoned, where he was not sommoned: vpon which faise returne & disceit of the shirife, the demandant shal recouer seisin of y land by the default of the defendant: then he to whome y disceit was made, shall haue the writ directed to the shirife of the same countie, that he cause the partie to come, whiche hath recouered, and also the somoners, to aunswere of the disceit and falsoenes, that they haue made as wel to the king as to y partie. And it shall be commanded to the shirife, that he take the land into the kinges hand, if the one or the other

other hath the land, vntil the pле be discussed
betwixt them, & the shirif shal awnt were and
make accompt in this case, of al þ issues, that
commeth of the land in the mean time, to the
Barons of the Eschequer. And know ye,
that if the somoners die afore that they bee
examined, the plaintif in this action shall ne-
uer recover the land: but then he shall haue a
writ of disseit vpon his case against the shi-
rife and recover against him all in damages.
And know ye, that when this writ is sued
against the shirife: the Coroners of the cou-
tie shall make execution of the writt as the
shirife shall do, if the writ were brought a-
gainst a stranger. And so it shalbe done in all
cases, where p[ro]ces is made against the shi-
rife in his countie. And now by the new sta-
tutes of E. 3. anno 2. cap. ultimo, A writ of
disseit shalbe maintained, & shall hold place
asswel in case of garnishmet, whiche toucheth
p[ie]ce of land, there where such garnishment
is due, as in case of Hommons in p[ie]ce of
land &c.

Know ye, that if Disseit be made in the
kings bench, Chancerie or in the Eschequer,
this writ shalbe brought in the places where
those disseits were made, and not eliswhere.
But of Disseit before Justyses of trial
Baston, or of Dyer and Terminer, after
office determined, a writte of Dysseit shall
bee brought in the common Bank, and it is
conuenient for him to haue the Record, if
disseit be made in any other place. And know
ye, that a writte of Dysseit lyeth agaynst
G. iiiij. the

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the attorney: if he be absent by Disceit. M.
22. E. 3.

And know ye, that a w^rit shal not abate
for default of forme, if he haue good substance
And if attorney be informed by his master to
pleade a false p^{ie}ce, the whiche hee may not
plead by conscience, he may haue such entre,
quod non fuit veraciter informatus, ideo nullum
c^our to aide him in a w^rit of Disceit. M.
16. H. 6. C. 9. E. 4.

A w^rit of Disceit was graunted by the
Justices in a w^ritte of w^rast, where at the
graund Distres the plaintiff had a w^rit to
inquire of the w^rast: and by the inquisition b^y
w^rast was found, by whiche the plaintiff hath
iudgement to recouer, where the defendant
was never somoned, attatched nor strained,
and the w^ritt mainteyned. C. 19. E. 3.

A man recovered in a Preceipe quod reddat
against iij. of certaine land by default, one
died, these ij shal haue a w^rit of disceit if they
were not somoned, notwithstanding that the
action was geuen to the third in his life, for
that, b^y it falleth in inheritance: & it was said
that if the iudgment bee geuen against two
by default, wherof the one was tenant, & the
other hath nothing, he that was tenant shall
haue a w^rit of disceit, notwithstanding that
the Record pouereth these two to be tenants.
And also it was said, that the king shal haue
the issues of the land after the first iudgmēt,
& not the party whiche recovered by disceyt.
And also it was said that the heir shal haue
a w^rit of disceit of iudgment taile against
his

his father of certeine land , but he in the re-
uersion shal not haue a w^rit of iudgement tal-
led against his tenāt for terme of life &c.

A writ of Rescusse.

REx vic' salutem. Si A. &c. tunc pone&c. B. quod
fit &c. apud VV. &c. ostēn, quare cum idem A.
per H. seruientem suum quendam equum ipsius B.
apud N. in feodo suo pro cons. et seruic' sibi debit is
capi fecisset, et idem H. equum illum ibidem secun-
dum legem et consuetudinem regni nostri Anglie
inparcare voluisset, et predict' A. equum illum vi et
armis rescusset, et alia enormia &c. ad graue, &c.
Teste &c.

This w^rit lyeth, where any lord distre-
neth his tenant in his proper fee, for cer-
teine rents, or seruices, or customes behind,
and the tenant come with force and armes,
and will not suffer the lord, nor his seruant
or him to take the distresse, but to them make
rescusse, then the lord shall haue the saide
w^rit. And also if any bailife, or minister of
the king, or of any other lord, to whom spe-
ciall auoritie is giuen to distreine, and res-
cusse to them be made, they shall haue the
said w^rit. And in the same maner may the
shirife or other bailife, which hath power to
take any man by the kings commandement,
if rescusse to them be made. And a man may
haue the said w^rit in many other cases, as ap-
peareth by the Register more plainly. And
the proces is in this w^rit, Attachement and
distresse, & for default of distresse ij. Capias &
one Exigent, as in a w^rit of Trespas for it
is

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is supposed that he made rescusse with force
and armes against the peace.

Know ye, that if the lord come to distreine
his tenant, and see the beastes: and the tenant
chase them from him, the lord shall not haue
a wyt of rescusse, for that, that he hath no
possession of them in deed, but he may follow
and take them whethir soever they be cha-
sed. C. 14. H. 4. C. 44. E. 3.

If a man take beastes damage fesant, and
in dving them by the high way to empound
them, the beastes enter in the house of their
possessour, and he that tooke the beasts pрад
deliuerance, and the possessor will not them
deliuer, a wyt of rescusse lyeth. Bn. 3. Iti-
nere 320.

A writ de Audiendo & terminando.

REx dilect et fidelibus suis S. et VV. salutem. Scia-
tis quod assignauimus vos iustic' nostros ad in-
quirend' per sacrum pro borum et legalium hominū
de comitatu S. per quos rei veritas melius sciri pote-
rit, qui malefactores et pacis nřae perturbatores bla-
da I. ad valenc' x. li. apud N. inueni vi & armis ce-
peř et asport. Et alia &c. ad graue &c. et contra pa-
cem &c. ad transgress. illam audiendam & termi-
nand' secundum legem et consuetudinem regni no-
stri Angliæ. Et ideo vobis mandamus quod ad cer-
tos diem et locum, quos ad hoc prouideritis præ-
missa expleat in forma præd' facturi inde secun-
dum quod ad Iustic' pertinet in hac parte, saluis no-
bis amerciament' & alijs ad nos inde spectantibus:
mandamus enim vic' nostro com' prædict', quod ad
certos diem et locum quos &c. venire faciat coram
vosbi

vobis tot et tales probos et legales homines de com
prædicto per quos rei veritas melius sciri poterit et
inquiri. In cuius rei testimonium has literas no
stras fieri fecimus patentes. Teste &c.

This writ lieth in nature of a writ of
trespas & lieth where any affray or tres
pas is made to any man against the peace of
our soueraigne lord the king, the which af
fray or trespass is hastily to be redressed and
amended, or otherwise there shalbe great
hurt of peace or dispaire of the life of þ same
man, then he which is in such maner affraied
or trespassed, shal haue þ said writ, but he shal
come to the king & to his counsell & shew in
a bill the maner of the affraye. And if he see
that it be to do, he shall graunt to the partie
the said writ directed to the shirif of the same
countie, that he cause to come before the Ju
stices assigned, to heare and determine this
affray, or trespass, tot et tal probos, &c. These
which shall trye such affrayes and trespasses.
And also the Justices assigned to heare and
determine these affrayes or trespasses, shall
haue a commission open, in which shall be
conteined what they haue to do, and what
shall be their power. And knowe ye, that
the writ which shall go to the shirifes is
such.

Ex vic. salutem, Assignauimus dilectos &c. R. &
VV. tibi scire facias quod venire facias coram eis
tot & tales &c. de comitatu tuo, per quos &c. om
nes illos quod &c. et quorum idem R. & VV. tibi
scire fac si predictus I. fec. & tunc pone &c. quod
fuit &c. Et habeas &c. Teste &c.

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And note that these wrights shall not be granted, but by the king & none hath power to heare and determine such affrayes but the kings Justices, & serjeants which be sworen to the king, and that is giuen in the statute of Westminster. 3. Cap. 39. which beginneth Breue de transgressione &c.

A writ of Errone corrigendo.

REx Maiori & vic' Lond' salutem. Quia in recordo & processu ac etiam in redditione iudicij loquæ quæ fuit in curia nostra ciuitatis prædictæ coram vobis præfat' vic' sine breui nostro inter A. & B. de quadam transg̃r̃ eidē A. per præfat' B. illaç ut dic' error interuenit manifestus sicut ex querela eiusdem B. accepimus. Nos errorem si quis fuerit, modo debito corrigi & partibus prædictæ plenam & celerem iusticiam fieri volentes in hac parte, vobis præcipimus, quod recordum & processum loquelaç prædictæ coram vobis in pleno hustingo nostro ciuitat̃ prædictæ venire, eaque in præsentia partium prædictarum per vos super hoc si interest voluerint præmuniend' recitari, & diligenter examinari, & errorem (si quis interuenerit) in hac parte debito modo corrigi, & partibus prædictis plenam & celerem iusticiam inde fieri fac' prout de iure et secundum consuetudinem ciuitatis prædictæ fuerit faciend' &c. Vel sic, vos præfat' vic' prædict' execuc' p securitatem coram vobis inueniend' vel faciend' ad respondend' eidem B. &c. et interim supersedeatis &c.

This wright lyeth in case where false iudgement is giuen in the common banke before Justices assigned for to take assises, or before the Mates and Shirkes of London, or

in any other towne franchised, then he against whome the iudgement is giuen shall haue this writ directed to the Justices or other ministers before whome the iudgement was giuen. And if false iudgement be giuen in London, then shalbe made as before saide in the writ of false iudgement, that they make the record and proces of iudgement to come before the Justices of the kings bench. And also that they cause to warne the partie, which recovered, to be afore the same iudges of the kings bench to pursue foyth in his pleie, as the kings court shall awarde. And know ye that when the record and processe are come before the Justices aforesaid, they shal correct and amend the iudgement if that right may be made the parties. And know ye: that a writ may not be maintained, but if the iudgement be of record, for if the iudgement be giuen in court baron, countie, or in hundred, which is not of record, then the partie shall haue a writ of Faux iudgement, and not a writ of Error. And if any be impledaded before Justices, and the partie take exception before his aduersarie which exception the Justices will not allowe, then the partie ought to do as is ordeined by the Statute of Westminster. 2. Cap. 13. which beginneth, Cum quis implacitatus &c. that is to saye, that the partie shal write his exception and praye one of the Justices to put his seale to the bill, and when his bill is sealed he shal go to the Chauncerie of our soueraigne lord the king, and put vp the bill to the counsell.

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And then the king shall make the whole record to come before him. And if the said exception be not found in the record, then shall be commanded to the saide Justices, that he be afore the king at a certeine day, at which day, if he come and may not denye his seale, then shall be commanded to him that he go forth to the iudgement, according to the saide exception. And knowe ye, that the Register giueth a writ of Error, of Fair iudgement given before the Shirife and his Coroners in countie, or in a writ of Post disseisin, and shall be redressed in the kings bench. And in the same manner it may be in a writ of Reddisseisin, and the cause may be, for that, that these writs of Reddisseisin, and Post disseisin are of record, for they shall be inrolled in the Chauncerie and the transcript of them shall be put in the Eschequer in the ende of the yeare. As it appeareth by the Statute of Westminster 2. Cap. 8. in the ende which beginneth, Cum per placitum motum. And knowe ye, that a writ of false iudgement shall be returned before the Justices of the common bank. But a writ of Errour shall be returned before the Justices of the kings bench. And knowe ye, that if errour be made in the Eschequer, it shall be redressed by the Chaunceller and treasurer, as it appeareth by the Statute of Edward the third. Anno 31. Cap. 12.

Assise brought against the gardeine of a chappell of the kings graunt. And the plaint was

was of land and rent, and hanging the assise, the gardeine resigned to the king, and he gaue that to one J. S. and the assise passed for the plentife, and J. S. was put out, & brought a writ of Errour as successour, & assigned for error that his predecessor was not named gardeine, and that the king was seised hanging the assise, and it was awardeed, that the writ lyeth for him, & the iudgement reversed. The same law is of a Prebendarier. But he that purchaseth, hanging the writ against his feoffor, he shall not haue a writ of Error, for that, that he commeth to that by his owne daede, and not by course of the lawe. C. 15. E. 3.

If a Quareimpedit or trespass be brought against many, and one confesseth the action, or pleide so that he is attainted, he shal not haue a writ of Error, vntill that matter be determined against these other, for the record may not be remoued before that all the matter be determined, and after that, he that confesseth the action may haue a writ of Error. Pa. 34. H. 6.

If a writ of Dett be brought against two by one ioynt Preceipe, and the proces is by severall Precepts, that is Error. Pa. 7. H. 6.

If the tenant in especiall taile hath issue a daughter, and lose by erronious proces & after hath issue a sonne by another woman, the daughter shal haue a writ of Error, & not the sonne. For that, that shre is heire to the speciall taile, and the sonne is heire at the common law. Pa. 7. H. 6.

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If errorious iudgement be giuen in the kings bench the same terme, it may be redressed by writ of Error in the same banke, and the rolle shal be amended: for that, that all times the same terme the record is in the Justices, and the roll is but their remembrance.

P. 7. H. 6.

If a recouerie be taile against the tenant in taile, for terme of life, he in the reuertion shall have a writ of Error, and reuurse that by the comon law so that the statute is not but in affirmance of the common law. The Statute is Anno 9. Richardi Secundi Cap. 3. H. 21. H. 6.

And know ye that there is a diversitie betwixt a writ of Error and a writ of faux iudgement: for that that faux iudgement is not of record, vntil such time that it be heard. And if the writ by which it is remoued be abated, it is come without warrant. Then it shall continue before the suitors, for it is as no writ. But otherwise is in a writ of Error, for that was a record before. And a record may be brought in the kings bench by a Judge of the common place without a writ but these suitors may not without writ.

P. 7. H. 6.

And a writ of Error lyeth all times against him, that is partie or priuie, notwithstanding that he be not tenant: for that, that the error ought to be tried by the record. But in false iudgement the writ shall be all times against the tenant of the lande notwithstanding that he be a stranger to the judge.

judge

judgement, for that, that these erroys shalbe
tried by auerrement, and not by the recordes:
for that, that it is not a Record, whiche a=
uerrement none shal haue, but the tenant of
the land. M. 18. E. 3.

¶ A writ de Conspiratione.

¶ Ex Vicec^o salutem, Si A. fecerit &c. tunc pone
¶ &c. A. C. ostens. quare in conspiratione inter eos
apud R. præhabita ipsum A. de quibusdam latroci-
nijs, & alijs transgressionibus per ipsum, contra pa-
cem nostram apud w. in com^o S. indictarent, & ipsum
A. occasione prædicta apud S. capi & in priso-
na nostra deten^o quousq; in curia nostra coram dilectis
& fidelibus R. & VV. Iustic^e nostris ad gaolam
nostram apud S. deliberandum assign^o inde, secun-
dum legem & consuetudinem regni nostri Anglie
acquietatus fuisset, falso & maliciose procurauerunt
ad graue dampnum ipsius A. & contra formam
prouisionis in huiusmodi casu prouisæ. Et habeas
&c. Teste &c.

¶ His writ lyeth in case where many men
are confedered together, by oþe, couenant
or by other communication, that euery one
shall helpe other, for to destroy, indict, kyll,
or cause to appeal any man, then he that is in
such maner appealed or indicted by such con-
spiratoris, & be acquite by the countrey, he
may haue the said writ against the said con-
spiratoris, as it appeareth by the Statute De
Conspiratoribus, made in the time of king E.
sonne of king H. An^o 34. And that the Jus-
tices assigned to heare and determyne ple^e of
trespas or of felony hath power to enquyre

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of such conspiratoris. And the proces is Attachement and distresse vntil they come. And that a Writ of Conspiracie lyeth not against these inditors. As it appeareth by the Statut of Westm 2. cap. 12. which begynneth . Quia multi per malitiā &c. which will þ a man shal not haue a Writ of Conspiracie of no appeale which shalbe determined before Justyses which are of recorde, for it shalbe enquired of thabettors before them selfe. And if any be found abettor, he shal haue a Writ Judicial against these abettors, the which is gauen in place of a conspiracie. And also a man may haue a Writ of Conspiracie where he is indicted wþthin a Citie, Borough, or other towne of any act or deede made wþthin the place where they haue Coroners wþthin their franchise, when he shalbe acquitted afore the Maior & the Bailifys of the towne, and that shalbe sufficient to record the deliuerance, if he be another time peached of the same felony in the kings Court. And that every such indictment of the act made wþthin the towne, the Maior and the Bailifys may deliuer him from the gaole, and also where a felon is mainprised wþthin the same Citie or borough : but if a felon be indicted out of the franchise, and after is taken wþthin the franchise, the Maior and the Bailifys may not haue the conuincion without lycence of the kinges Justyses, which are assigned by Writ to deliuer the gaole of the same county, but of them selfes they may not &c. And the Justyses assigned to heare & determine ples of

of Trespas and of felony, hath power to enquire of such conspiratorz, & the procces is ut supra.

If a man conspire to indict another, & after the conspirator is sworne in the enquest to present for the king, and hee doth enfourme his felowes, that the said J. S. hath made such a felony, and afore that the verdict bee geuen he is put out of the panel, a writ of Conspiracie lyeth against him, but if he had bene discharged after verdict, he had ben discharged of the conspiracie, for that, that the law intendeth that all that was made afore was lawfully made, for that, that it is excused by his othe. W. 20. H. 6.

J. and W. by false conspiracy betwixt them made, procured certaine people to indict C. of the death of one D. by force of which hee was indicted & arraigned of the death of D. and he knowledged and justified, by force of which he went quite by iudgement, in thys case C. shall not haue a writ of Conspiracy, for that, that D. knowledged the felonie and of that was acquited by force of the law, as of a thinge which was not felonie by the law, and it was not to J. and W. to knowlede whether it was felonie or no. W. 22. E. 3. Lib. 111.

If one procure dyuers people to endict me, and after he that procured hath a Commission, and afore him I am indicted: I shall haue a writ of Conspiracie against hym, and hys Commission shall not excuse hym of the wronge made before, and so is it if

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a man be sworne for to enforme thenquest,
this other shal not excuse him. A. 27. E. 3.
Lib. II.

A writ de Compoto.

REx Vic' salutem. Præcipe A. quod iuste &c. red-
dat B. rationabile compotum suum de tempore
quo fuit Balliuus suus in C. & receptor denariorum
ipsius B. vt dic'. Et nisi fecerit, & prædictus B. fecerit
te secur' &c. tunc summoñ &c. prædictum B. quod
sit &c. ostensurus quare non fecerit &c. & habeas
&c. Teste &c

This writ of Accompt lyeth in case where
any Baileſe, chamberlaine, or recepuer,
which ought to yeilde hys accompt, will not
accompt yeilde, then he to whom the compt
ought to be geuen shall haue the said writ.
And the proces is Summons and distresse,
and for default of distresse ij. Capias & an
Exigent, which shalbe proclaymed in syue
Counties. And know ye, that by the statut
of Westm 2. cap. 11. which begynneth, De
ſeruientibus, Balliuis &c that the Baileſe render
accompt, & if he be found in arrerages, these
Auditours which are to him assigned hath
poower to commit him or delyuer hym to the
next gaole, and there to abyde vnder good
keeping, vntill hee make gree, but if hee bee
ſued, and in the ſuit outlawed whereby hee
is taken and put in prison in the gaole, then
he is repleuisable. And let the Shirif, Baileſe, or
Gardein of the gaole, take good heede
that he be not let to mainprize without writ
espe-

especially to him directed vpon the said matter, or without the kings lycence, that if hee do, he shall yelde to the Lord his damages, and that wil the statut aforesaid. And know ye, that executors of executors shall haue an action of debt, of accompt of goodes taken of the first testatour in the same maner as hee should haue if he were in full life. And know ye, that the same executors shal aunswere of so much as they haue recouered of the goodes of the first testator, as the first executors if they were on lyue. And that will the Statute of Ed. 3. An. 15. De prouisor' victualium ca. 5. And know ye, that by the statut of West. 2. cap. 23. executors shall haue a wryt of Accompt, and the same action and proces as the testator should haue had if he were on lyue. And also by the Statute of Ed. the 3. An. 4. cap. 8. executors shall haue an action of trespass made to their testator, of goods and catels of the testator taken away in the life of the testator, for to recouer damages against the trespassor in the same maner, as these to whom they are executors should haue if they were on lyue. And also by the Statute of Marleb. cap. 17. which begynneth. Prouisum est etiam &c. if the Gardeine in socage make wast, the heire when he commeth to his full age shall haue a wryt of Accompt against the gardeine, in this maner. Si A. fecerit &c. tunc sum B. quod sit &c. ostens. quare cum de communi consilio Regni nostri Angliae prouisum sit, quod custod' terrarum & tenementorum quae tenentur in socagio, haered' terrar' & tenement', cum ad plenam

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etatem perueniunt reddant rationabile compotum suum de exitibus terrarum & tenementorum proueniens de tempore quo custodiam illam habuerunt ratione minoris aetatis hered' predictorum: idem B. prafat A. rationabile compotum suum de exitibus proueniens de terris & tenementis ipsius A. in N. quæ tenetur in socagio, & quorum custod' idem B. habuit dum prafat A. infra etatem fuit, reddere contradic', ut dic' &c. Teste &c. And know ye, that if the plee be in countie by a w^rit of account, the partie plaintife may remoue the plee into the common bank by the Pone, as in a Repieuin. And also it may be remoued at the suit of the defendant, but not without good cause, And it is to know, that in the Eschequer at the suite of the Citizens of London, it was awarded that there shere a man impleadeth another by w^rit of Ac-
count, or by plaint after the usage, and Auditors be assigned by the Court, the partie shal not haue a w^rit of Ex parte talis, but there shere the Lord assigneth auditors, then the partie shal haue a w^rit of Ex parte talis.

The w^rit was brought against a woman, and it was challenged for that, that there is no such fourme in the Chauncerie, and notwithstandinge it was awarded good. M. 9. B. 6.

The w^rit was tempore quo fuit Balliuus suus in C. and the w^rit was challenged for that, that there is two C. and one without addition, & the w^rit awarded good. B. 44. C. 3.

The w^rit was tempore quo fuit Balliuus sui predecessoris, & was challenged for that, that at

at the common law he had no action, and the statut helpes him not, but the defendant durst not demurre in law. H. 31. E. 3.

In a w^rit of Accompt against a gardeine in socage, it was not shewed by the w^rit, ne by the declaration that he is next friend, for the which the w^rit was challenged and not allowed. H. 22. E. 3.

In accompt of x. li. by the handes of A. B. the defendant said, that he made a dæde to the plaintife and to the same A. B. which testifyeth the receipt, iudgement wþþout shewing the dæde, this is a good plee in discharge of accompt, and not in barre. Añ 1. H. 6.

In accompt of the receipt of C. li. the defendant said that accord was taken betwixt the plaintife & the defendant by their frends, that the defendant in full satisfaction shal make to the plaintife an obligation of the said C. li. for all debries, detinues & encreasements, that to þ said plaintife may encrease by reason of the receipt &c. And that was holden a good barre. Añ 22. H. 7.

It is a good plee for the defendant to say, that he hath accompted afore the plaintife selfe at such a place. P. 4. E. 3.

In accompt against one as Receyuer, the defendant said that the plaintife deliuered the money to him, and that he should go to Lumbarde for to make exchaunge and to receyue letters of exchaunge, by force of whych he receyued the letters, and these deliuered to the plaintife, without that he was

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was his Receipt in any other maner, this
was holden a good barre. H. 5. H. 5.

¶ These Plees following, be in discharge
of Accompt.

In Accompt the defendant said, that after
the receipt at M. the money was robbed
from hym by certeine felons, & that is a good
plee in discharge of accompt. M. 9. E. 4.

In Accompt the defendant shall say, that
after the receipt that the plaintiffe graunted
to him, that he may receyue the said money
in the name of payment of another summe
which he ought to the defendant. H. 12. H. 4.

In a Writ of accompt it was supposed that
the defendant hath receyued C C . li. the de-
fendant said, as to a C. li. you your selfe re-
ceyued the said C. li. by a deede that here is,
which testifieth the same receipt, & that was
holden no barre, but afore Auditours the plee
shalbe allowed. H. 4. E. 3.

If Auditours be assigned, and the parties be
at issue afore them, the Auditours shall bring
the Record to the Justices of the common
place, and record all that, that was made a-
fore them. H. 12. H. 6.

If a man accompt afore the plaintiffe selfe,
he may not award him to prison, for he may
not be his owne iudge, by which he shalbe a-
warded to accompt of new. M. 22. E. 3.

If a man be found in arrenges vpon hys
accompt, and the Auditours suffer him to go
at large, at another time after they may not
awarde him to prison. H. 17. H. 6.

It

If two executors bee, and the one receyue
money due to the testator, his coexecutor shal
not haue an action of Accompt against him
for that money. The same law is of two
Marchants which hath goodes in common.
C. 11. H. 4. P. 14. E. 3.

But if two haue a warde in common, & the
one take all the profites, the other shall haue
a w^rit of Accompt, and recouer the halfe. P.
45. E. 3.

Know ye, that a w^rit of Accompt lieth not
against an infant, for he hath no discretion.
M. 9. H. 6.

¶ A writ de Ex parte talis.

Ex Vic^t, Thesau^r & Baroⁿ suis de scaccario sa-
lutem. Ex parte VV. cap^t & detent^t in gaola
nostra de N. pro arr^t compotis^t sui, quibus I. de C. ip-
sum assent^t sibi tener^t de tempore quo fuit Balliuus
suis in G. nobis est ostens^t. qd^t c^{um} Auditores com-
poti pr^{ed} ipsum VV. sup^t eod^t compoto iniust^e gra-
uauer^t onerand^t ipsu^t de receptis, quae non recepit, &
non allocand^t ei expensas aut liberationes rationa-
biles, & quia pref. w. iniuriari nolumus in hac parte,
vobis mandamus quatenus manucape^t sufficient^t
prefat^t VV. capiat^t in forma pr^{edicta}, & ipsum a
prisona predicta deliberari fac^t, put de iure & secu-
dum formam statuti fuit faciend^t. Mand^t tamen
custodi pris^ton pr^{edict^e} quod ad certos diem &
locum quos eis circare fac^t, venire faciat pr^{edictum} w.
cum rotulis & tal^t, per quos compotum suum pr^{edicto} A.
reddidit ad faciend^t inde & recipiend^t in
pr^{emissis}, quod de iure & secundum formam sta-
tuti pr^{edicti} iusticia sua debet. Et quod pr^{edictus}

VV.

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VV. a gaola prædicta, interim deliberari facias.
Teste &c.

A writ of Dette.

REx Vic' salutem. Præcipe A. qd' reddat B. x. libras quas ei debet & iniustè detinet ut dic'. Et nisi fecerit te secur' de &c. tunc sum' &c. prædictum A. quod sit &c. ostens. quare non fecerit, & habeas ibi sum', & hoc breue. Teste &c.

This writ lyeth in case where any summe of money is due to a man by reason of any loane, or of any other contract to be paied at a certeine day, or if any be bound to any other to pay a certaine summe of money, at a certaine day, at whiche day he payeth not, nor will not pay, then he to whom the det is due shall haue the said writ. And the proces in this writ is **H**ummons, **A**ttachment, and **d**istres, and for default of distres in **C**apias and an **E**xigent, proclaimed in v. Counties.

And know ye, that if a writ of Det, trespass or accompt, be brought against an Arch-bishop, Earle, or Baron, that are Lordes of the Parlyament, no proces of vilaunce lyeth against them, but all times distres. And the cause is for that, that it is supposed that they haue sufficient whereto they may bee distrayned. And know ye, that a wrytte of Dette may be pleaded in Countie, if the det amount not to xl. s. As it appeareth by the statut of Glouc cap. 8. which beginneth, Purview est ensement, que nul Vic' &c. And if the det be of xl. s. or more, then it shalbe pleaded in the common banke afore the Justices by writ.

Writ. And know ye, that if a contract or
couenant bee made to executors of a det by
reason of goods sold, which were to the testa-
tor to pay at a certaine day, which day is
past, and he bringeth a writ of Det, the writ
shal say, Quos ei iniuste detinet ut dic, & non de-
bet, and the cause is, for that, that the debtor
supposeth property to the executors, and the
executors may not haue propertie of thinges
which were.

Know ye, that sometymes a man shalbe
charged of a contract made by his wife, bai-
life, seruant, or other such persons. As if my
Bailife buy shaepe, or other such thing to my
use, I shal aunsware for that det, & by plain-
tife shal not shew in his declaration that the
bailife hath warrant to buy for me, but for
that, that they come to my use I shalbe char-
ged. C. 3. R. 2. But after Newton, if my
seruant or wife buy certaine things, though
they come to my use afterward, I shall not
be charged, but if he buy to my use, & ioine
the buying to my use at y time of the contract
made, then I shalbe charged if it come to my
use. Quare of this diuersitie. H. 20. H. 6.

But if a wyfe buy in open Market, the
husbande shall not be charged for that, if it
come not to the use of the husband, for it may
be that it shalbe charge to the husband, & the
husbande shall not be charged of a contract
made by the wife in such maner: But if I
commaunde my wife to buy thinges necessa-
rie &c. I shalbe bound by that commaunde-
ment, but if my wife buy thinges to keepe
my

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my housholde, as bread, & I haue no know-
ledge of that, though it be spent in my house.
I shall not bee charged for them. By Fineux
chiefe Justice. C. 14. H. 7.

In Det, the plaintife declarereth vpon a con-
tract, that is to say, if the plaintife take the
the daughter of the defendant to his wyfe,
that the defendant shall geue to him x. li.
and the plaintife said that hee toke to wyfe
the daughter of the defendant &c. q Finch. he
demaundeth his dett because of a contract
whiche toucheth matrimonie, iudgement if
the Court will hold p[ro]ce, and not allowed
&c. H. 14. C. 3.

Det agaynst two by one Practise vpon an
obligation, by whiche these two were bound
soyntly, and euery one severally in the whole
and the one come by the Capias, and the other
made default, & the plaintife declared against
him that came. And Finch. Justice said, that
the plaintife vpon thys obligation, myght
haue demaunded this det against them ioint-
ly or severally at his election, & by the maner
that hee hath now taken his writ, the one
shall not aunswere without the other, for
whiche cause he that commeth shal haue Idem
dies by mainprize. H. 48. C. 3.

In a Writ of Dette, the plaintife declared
that the defendant bought of hym certayne
beastes & other thinges to the value &c. And
the defendant said, that the plaintife had
nought in the thinges sold, but as executor
to one J. the whiche J. made the plaintif and
one W. as executors, the whiche W. is not
named

named in this w^rit, iudgement of the w^rit, and for that, that the plaintife hath declared of a contract made betwixt them, so that the defendant is become dettor to the plaintife the w^rit was awardeed good. P.38. E.3.

Know ye, that it is said in a w^rit of w^rit that if a woman being bound in an obligation take a husband, the husband shalbe charged of the det during the life of his wife, and after her death he shalbe discharged, except the iudgement be geuen against him in the life of his wife. M.49. E.4.

Note ye, that it is said, if a man be bound to a woman sole, and the wife taketh a husband, and the day comprised within the obligation passeth during the mariage, if the husband dye without releasing, or acquiting the obligor, the wife shall haue an action of Det vpon that obligation after the death of the husband. Quare if the executors obtaine the obligation, if they shall haue the said obligation. C.12. R.2.

¶ A writ de Catallis reddendis.

Ex Vicec^r salutem. Præcipe A. &c. quod reddat B. catalla ad valenc^r x. li. quæ ei iniuste detinet ut dic^r, & nisi fecerit, & predictus B. fecerit te secur de clām suo pros. tunc sum &c.

This w^rit lyeth, where any goodes are delivered to any man to keepe vnto a certain day, at which day he commeth and demaundeth his goodes, and the other w^rythholdeth them, then he shall haue this w^rit. And the proces is as in a w^rit of Accompt. And that

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is gæuen by the new statutes of E. 3. Ann. 25. De prouisor viciualium cap. 17. that is to say, **H**ummons, **A**ttachment, & **distres**, **proces** of **vtlawrie**, and these proces is geuen too in **Detinue** of **goodes**, as in a **writ** of **acompt**, **vt patet** supra. And it is to know, þ in a **writ** of **Detinue** there shal not be said, **que ei debet**, **Ne** in a **writ** of **Dette**, If executors aske of executors **goodes** or **dets**, the **writ** shalbee al times **que iniuste detinet**. And afore the **Justices** of the **banke**, **Quos ei debet** & **iniuste detinet**, except it bee of **goodes**, then the **writ** shalbee, **Que iniuste ei detinet, tantum**. And if the **det** be **demaunded** afore the **Justices** in **Eire**, the **writ** shalbe, **quos ei debet, tantum**. And if it bee of **goodes**, **que iniuste detinet, tantum**. And if the **plee** be of **Det** or **Detinue**, amounting to the summe of **xl. s.** or aboue, and is pleaded in **Countie** or **Court** **baron** **without** **writ**, the partie shall not haue a **writ** of **false Judgement**, ne a **writ** of **Executione** **iuditij**, except to the **courts** of **Cities**, or in other places that hath **iurisdiction** by **custome**. And also if the **plee** of **det** be moned in **countie**, that amounteth to the summe of **xl. s.** or more, the partie defendant may haue a **Supersedeas** directed to the **Shirife**, that **hee cease** in the **plee**. And note ye, that a man may haue a **writ** of **Pone**, & **Recordare** in these **writtes**, as in a **writ** of **Accompt**. And also a man may haue a **Supersedeas** directed to the **Maylifes** of any **court**, if they holde **plee** of **Dette**, or of **goodes**, that amounteth to **xl. s.** or aboue. And also in many other cases

tou-

touching dette or goodes, as it appeareth by the Register.

And note ye, that certaine proces is geuen agaynst executors, and delayes put out in such plees by the statute of E. 3. An 9. cap. 3.

If a man dye intestate, and the Ordinarie make deputie the most next frend of the dead for to mynister his goodes, these deputyes shall hane an action to demaunde dettes due to the deade person, as executors shall, and aunsware in the kinges court to other, to whom the saide dead person was bounde in obligation, in lyke maner as executour shall aunsware, and are accomptable to the Ordinaries as executors are. And 31. E. 3. cap. 11. And also by Westm 2. ca. 16. which beginneth, Cum post mortem &c. the Ordinarie shall aunsware of the dette, in whych the dead was bounden as farre as the goodes suffyseth, in lyke manner as executors should if the dead had made his executors. And in case that the Ordinarie make hys executors and dye, afore that these dettes whych the deade ought bee payed, then these to whom the said dette was due, shall haue a writ of Detinue agaynst the executors of the Ordinarie. Anno 11. E. 3. And in Anno 15. Ed. 3. one Robert Pykeryng brought such a writ against the executors of the Ordinarie.

Note of what habylments & possessions of goodes, a man shall be charged.

If I make a writing sealed, and that deli-
vered to I. S. vpon certain conditions to be
per-

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performed, and then to delyuer to R. & R. and R. & R. obtaine the deede, the conditions not performed, I shall haue a w^rit of Detinue against I. S. M. 9. B. 6.

If my father deliuer to R. a deede of feoffement to delyuer to him and to his heires, & one I obtaine the deede, I shall not haue action against I. if I haue not the land, for if a straunger haue the land, the deede belongeth not to me, for it belongeth to the executors. B. 9. B. 7.

But if I be enfeoffed by deede with a warrant, and after I enfeoffe another in fee, and binde me and myn heire to warrant and die, if any haue the deede by which I am enfeoffed my heire shal haue a w^rit of Detinue, and so if my father be disseised and dye, I shal haue a w^rit of Detinue, though that I haue not the land. And of Charters taken out of my possession my executors shall not haue action of Detinue. B. 6. B. 4.

A dæde or any other thing delyuered to a Monke, vpon condition to redelyuer, a man shal not haue an action against the Abbot & his Monke, for the Monke may not charge the Abbot against his will, but of a deliuerie made to a Monke to delyuer ouer to the Abbot vpon a condition &c. if the Abbot performe that, then he shall haue the thinge for euer, now the Abbot shalbee charged alone, without naming the Monke with him C. 1. B. 4.

The same law is, of a delyuerie made to the husbande & to the wife, the w^rit shalbe brought

brought against the husband alone, otherwise the writ shall abate. H. 38. E. 3.

But if a woman come to a thing as executrix, which woman taketh a husband, now h action may be brought against the husband & the wife jointly. E. 39. E. 3.

And if the wife haue coexecutor with her it is no plez for her and her husband, to say, that her first husband made his executors, the said husband and wife, and one J. which is in ful life not named &c. for the possession chargeth him. E. 41. E. 3.

Note ye, that a man shall haue a writte of Detinue, against the husband & his wife of a deliuery made to the wife, whē she was sole afore the mariage. H. 43. E. 3.

In Detinue of Charters, the tenant may plede a deliuerie in another County, and the reason is, for that, that he may not wage his law. P. 9. H. 6.

A man may not wage his law in the Detinue of Charters. P. 8. E. 4.

But in Detinue of xx. quarters of wheate he may wage his law. P. 6. E. 4.

And if two writtes be brought by divers plaintiffs against the defendant of any thing he may pray that they may interpleade: as if two bring seueral writs of Detinue against one of one obligation, & every one deciare a seuerall deliuery made by them, in this case they shal interpleade, notwithstanding the declaring of seuerall deliueries, for that, that it is not trauevable, but conueyance to the action. P. 3. & Pa. 7. H. 6.

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If two wrights be brought against one man of one thing, & the one plaintiff declare of one delivery in the county of H. & the other declare of a delivery in þ county of M. In this case they shal not interpleade, for it may not be intended one delivery of one thing, and the defendant shal aanswre to both the playntives. A. 14. H. 6.

But if the defendant confesse the action of one of these plaintiffs: the other shal haue his remedy by his action, and they shal not interpleade. C. 8. E. 3.

And if the parties be awarded to enterpleade, he that hath þ writ of elder date ought to declare first. M. 3. H. 6.

Note that when the defendant in a writ of detinue praierth garnishment, he is out of the court maintenanç for to pleade any ple, but hath day in court to deliuer that, that the plaintyfe demaundeth, to him, to whom the court awarded. M. 12. H. 4.

If I and another deliuer a thing to keepe and to deliuer to vs, or to the one of vs, in an action brought by one of vs, it was sayde, that the deliuerie was in maner boide, for it is in no certaine to whom it shalbe deliuered, but admitte, that the action was brought by the one of vs, Quare, If the garnyshée shall haue the ple in abatement of the writ for to shew the matter, in so much that the defendant hath admitted the writ good. And the opinion was that the writ brought by the one shal abate. H. 12. H. 4.

¶ A writ

¶ A writ de Catallis captis nomine distictionis.

This writ de Catallis nomine distictionis captis reddendis, may not be maintained in no place but within a boroughe, or wythin a house for rent goinge out of the same house wher a man may take the doores, windowes or gates.

¶ A writ de Cartis reddendis.

REx vic' salutē. Precipe A. q̄ &c. reddat B. quādam cistam cum cartis, scriptis, et alijs munimentis ac diuersis cartis, et bonis in eadē cista contentis sub securū ipsius B. clausam quam &c.

REx vic' salutem. Precipimus tibi quod A. iusticies quod iuste &c. redd' B. quandam cartam vel duas cartas, vel tres, vel quoddam scriptum oblig. vel quoddam scriptū conuentionale, quam (vel quas) ei iuste detinet, vt dic', sicut rationabiliter monstrare poterit, q̄ ei reddere debeat. Ne amplius inde clam aud' pro defectu iusticiae, Teste &c.

This writ lyeth in case wher any wryting or Charters of feoffement are deliuered to any man to keepe, and he to whom the wrytings were deliuered, wil not them redeleyuer, when the other these demaundeth, shal haue this writ. And know ye, that it is conuenient for him to shew the certaintie of these Charters demaunded, or otherwise this writ shal not be maintained. And the proces is somons, attachment, & distres vntill the party come. And no proces of vtaowy lieth in this writ, for that, that it toucheth freeholde. And in place that toucheth freeholde,

¶. 1.

no

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no proces of vtaſwrye is geuen, but by the newe Statutes of Edward the thirde Cap. 23. Proces of vtaſwrye is geuen in a ſwyt of Dette, Detinue of goods, as in a ſwyt of accompt.

¶ A writ of Audit querela.

REx Iustic' suis de banco salutem. Ex graui querela I. accepimus quod cum idem I. nuper coram I de VV. tunc Maiore vili VV. & V. de S. tunc clero &c. recognouisset se debet B. C. li. ad certos terminos in dicta recognitione contenē soluend', ac idē A. postmodum per quandam indenturam inter ipſos A. et I. concessit, quod si prædictus I. solueret prædicto A. singulis annis ad iiii. anni terminos, per aequales portiones quendam redd' xl. s. exeunt de terris & tenementis prædicti I. aut R. fratri eiusdem I. in villa de N. & in suburbio de N. ad totam vitam ipsius A. quod tunc prædicta recognitio C. li. penit casseret, & pro nullo haberetur, prout per alteram partem indenture prædictæ per dictum A. .sigillat', quam idem A. penes se habet (vt afferit) plenius poterit apparere. Et licet prædictus I. dictum reddit xl. s. prefat A. singulis annis ad terminos prædicti aequis portionibus a tempo' recognitionis prædictæ confect' vsque ad festum Paschæ anno tali, bñ & fideliter soluerit, & eundem redditum eidem A. semper hactenus a festo prædicti vsque ad eosd' terminos solvere paratus fuerit, & adhuc existat, prout vijs & modis, quibus conuenit, paratus est edocere idem A. executionem dictarum C. li. de terris & tenementis ipsius I. pretextu recognitio prædicti' persequitur minus iuste, in ipsius I. non modicum grauamen, & contra

tra vim & effectum indenturæ prædictæ. Et quia e-
undem iniuriari nolumus in hac parte, vobis má-
damus quodd visa altera parte indenturæ prædict' &
vocatis coram vobis partibus prædictis, auditisqué
hinc inde earum rationibus, vltierius in hac parte
fieri faciatis, quod de iure & secundum consue-
tudinem regni nostri Angliæ fuerit faciendum,
Teste &c.

This w^rit lieth in case, where a mā is hol-
den to another in a certaine summe of mo-
ney, by Statute Marchant, to pay at a certaine
day: or otherwise, that he shall forfayt the
penaltie of the Statute Marchant, within
which day, the creansor releaseth to the det-
toz the same summe, or otherwise by cou-
enant of Indenture betwixt them made, that
is to say, that the dettoz shall pay to the cre-
ansor a lesse summe of money every yere by
little parcels vntil the same summe be fully
contented & payd, and if he do, then the other
shal not sue the Statute, then notwithstanding
the release or indentures, the creansor sueth
to the Maior and bailifs for execution of the
statute, that is to say, by the dettoz be taken, &
put in prison vntil the debt be paide: the he to
whom the release or indenture was made, or
his next frend, shal come to þ Chauncelloy, &
shewe the release to him, then this w^rit shal
be graunted & directed to one of the Justices
of the common banke, and after that he shall
haue somons out of the common banke to the
shirif in what county so ever that the crean-
sor is in, to cause him to come at a certayne
day, at which day if he come not then he shal

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be distrained, and if he come not to the distres retourned, the other shall be restored to his lande.

One was taken by a Capias vpon a certificat of a statute merchant, & shewed forth acquittance of the playntife, & praied that hee might be demaunded, and so he was, and appeared not, wherefore the defendant prayed that it be recorded, and to him it was denied for that, that he hath no day in court, wherefore he prayed a venire facias, or a scire facias, against the plaintife to aunswere to the daede & to him it was denied, & it was awarded v he shal sue an Audita querela, or els he shalbe without remedy. P. 13. E. 3.

The w^rit of Audita querela reherseth howe the recognissee hath released al actions by his daede, & also that he hath released by inden-
ture vpon certaine conditions v which was fulfilled, & the w^rit was challenged for that v it reherseth these two titles, where one ex-
tinguisheth the whole, wherefore the court awarded that the playntife shal holde him to the one and so he helde him to the release M.
44. E. 3.

Note that it behoueth all tymes that the Audita querela make mentyon of the release, acquittance or defendance, for otherwise the playntife shall not haue a Superledeas. M. 28.
E. 3.

Know ye, that if one Audita querela be chal-
lenged, for that, that it doth not accorde to
the statute, & the recognisor putteth afore a-
nothre w^rit of Audita querela, & praicth that the

the defendant may aunswere to his deede, in this case if the defendant wil not aunswere, nowe when he hath day in court to answe to this ij. w^rit, then a venire fac. vpon the ij. w^rit shalbe awarded, & a Supersedias to the shirif, & v^ris a disaduantage to the defēdāt that the first w^rit is abated. C. 25. E. 3.

¶ A writ of Si recognoscatur.

REx vic' salutem. Prec' tibi quod si A. recognoscatur
se debere R. xl.s. sine vltiore dilatione, tunc ip-
sum distringas ad predict' debitum eidem R. sine di-
latione redd'. Teste &c.

This w^rit lyeth, where a man oweþ to an-
other a certayne det, & the dettoꝝ knowe-
ledgeth afore the shirife in his countye, that
he is dettoꝝ to such one, then he to whom he
is dettoꝝ after the recognisaunce made, shal
haue the said w^rit. And by this w^rit he shal
be distrained vntill he hath made gre^r to the
party for the debt. And note that this w^rit
lyeth not, but of money numbred.

¶ A writ de Executione facienda.

REx vic' salutem, Monstrauit nobis B. quod cum
ipse nuper implacitasset in com^r tuo per breue
nostrum A. de debito C. s. & idem A. in pleno com^r
illo recognouit se deber^r prefato B. eandem pecuniā
ad cert' terminum reddend', tunc termino illo claps^r,
& eandem pecuniā eidem B. nondum soluit, illam
ad querimoniam suā scdm recognitionem prēd' huc-
usque habere non fecisti, in ipsius B. dampnum non
modicum et grauamen. Et quod idem A. prout ius-
tum fuerit subuenire volumus in hac parte, tibi prēc'
I. iiiij. quod

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quod si ita est, pecuniam illam de bonis & catallis
ipsius A. in balliuua tua leuaſ & illam eid' B. habere
ſac' ſine dilac', ne claim ad nos in d' perueniat itera-
tus, Teste &c.

This writ lyeth where a man impleadeth
another in county before the shirife, and he
that is the dettoz makeſ there a recogny-
ſance before the shirife to pay to the plain-
tife the ſame ſumme at a certayne day, the
which day is paſt and the ſumme not payd,
nor the recogniſee wil not pay the ſaid ſumme
to the plaintife, then the plaintife ſhall haue
the ſaid writ that is called de Executione fa-
cienda de recogniſta in com direcſ to the shi-
rife commaunding him that he make executi-
on of the ſame knowledge.

¶ A writ de Secta molendini.

REx vic' ſaluſ. Prec' A. quod iuste & ſine dilations
ſac' ſectam ad molēdīnum R. de C. quā ad illud
facere debet & ſolet ut dicit. Et niſi predictus B. fe-
cerit &c. tunc ſum &c. oſtenſ. quare non fecerit. Et
habeas &c. Teste &c.

This writ de ſecta molendini (being in the
debet & ſolet) is a writ of right, & it lyeth
betwixt ſtrange perſons for ſuch ſuit with
drawen. And if the lord aske ſuite of his
tenant, he may diſtraine, and aduow the diſtres
to bee reasonable. And that was uſed in the
time of E. ſonne of king H. & ſuch writ may
be made in the county and in the banke, as it
appeareth by the Register.

¶ A writ

¶ A writ de quod permittat.

¶ Ex vic' salutem. Precipe A. quod iuste &c. et si-
ne dilatione permittat B. habere com' pasturæ in
N. de qua C. pater predicti B. cuius heres ipse est,
fuit seifitus, ut de feodo tanquam pertineñ ad te-
nement suum in eadem villa die quo obijt, ut dicit.
Et nisi &c.

This w̄rit lieth where a man is disseyled
of common of pasture, & the disseisor dothe
alien and dieth, and his heire entreth or the
disseisie dieth, then the heire of the disseisie, or
the disseisie self, shal haue the said w̄rit. And
note ye: that a quod permittat was vsed: habe-
re rationabile estouarium in bosco, vel in turbaria
& similibus. But in place of this w̄rit is ge-
uen Assise of nouel disseisin, as it is said in the
statute of Westm 2. Cap. 25. which begyns
neth: Quia non est aliquod breue &c. For by the
statute is ordained: that if any be disseyled
of his turbarye, fishing, or of any other such
like that belongeth to his freeholde for terme
of his life at the least, he shall haue Assise of
nouel disseisin. And also by the Statute of
West. 2. cap. 24. which beginneth. In quibus
casibus &c. that if any person of holy church
be disseised of his common of pasture (lyuing
the disseisor) he shall haue assise of Nouel
disseisin of common of pasture. And in the
same maner will, that the successor shal haue
a w̄rit of Quod permittat against the disseisor
or his heire. But in case where they are ma-
ny commoners, which hath common of pasture
together by deede or couenant. And that the
lorde leaue vpon the common a mill or a back-
house

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house. The commoners shal not haue assise of
of nouel disseisin, but shall bee hepled by the
common law vpon their couenant or especialty.
And that is geuen by the Statute of Westm. 2.
Cap. 46. which beginneth. Cum in statuto &c.
in the ende. And note ye that when this writ
is in y debet without the solet, & a man ought
to declare of the seisin of his auncestors, and
shal holde his suite dereined good, then ly-
eth bat talle or great Assise. And when the
writ is in the debet and the solet, and a man
shall declare of his owne seisin, and not to
say, to holde his suit dereined good, and this
writ shalbe tried by the inquest. And this
writ shalbe pleaded as a writ of trespass by
attachment and distresse and not by the grad
Cape or petit Cape. And it is to know that
if a free tenant be put out of his common of
pasture by the lord, or if the lord hath appro-
ued contrary to the Statute of Merton Cap.
4. and against the Statute of Westm. 2. Cap.
46. so that the tenant hath no sufficient pas-
ture, he shal haue Assise of Nouel disseisin of
common of pasture. And if the pasture bee
surcharged by one free tenant, they shal haue
a writ of admeasurement. But if the tenant
surcharge the pasture the lord shal not haue
a writ of Admeasurement agaynst the te-
nant, nor the tenant agaynst the Lord, but
the lord shal haue Assise of Nouel disseisin
de libero tenemento, quod dubitatur. And know
ye: that a writ of Quod permittat may be ple-
ded in the Countye before the shirife and it
may be in the debet and solet, or in the debet
with-

without the solet, according as the demaundant claimeth. And if a man be disseised of his common of pasture, and the disseyfors dyeth and his heire entreth, the disseisie shal haue a w^rit of Quod permittat, and shall make mention of the disseisin. And if after the death of the disseisor or his heires, a straunger purchasour entreth, he shal haue a Quod permittat in the debet & solet, which shal try the right. And if he demaund common of pasture of the seisin of his auncestor, the day of his death, he shall haue a w^rit of Quod permittat that shal make mention of the seisin of his auncestor, the which is in nature of Mortd, But if a straunger enter after the death of the disseisor, he shall haue against the straunger no other w^rit but the Quod permittat in þ right. And know ye: that a Quod permittat lyeth of common turbary, fishing, and of reasonable estouers against the disseyfors of a disseyisin by him or his auncestors made to the playntife or his auncestours, and in no other degrees. Note yee: that the Quod permittat that is of the nature of the Mortdauncester may not be pleded in the county. But þ Quod permittat ad certū numerum aueriorum may wel be pleded in county, in þ cōmon bank, or in Eire. In a Qd pmittat in þ debet & solet, of a way of his own seisin, it is cōuenient for þ plaintie to claime þ way in his declaration by prescriptiō or by dæd: for that, þ he claimeth to take such profit in þ several of another perso C. 30. H. 6. Note yee: þ if a mā & his auncestors were wont to grinde at my mill wout mulcure,

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ture, and the milner will not suffer him to
grinde without multure, wherby the milner
taketh multure. In this case a man shall not
haue a w^rit of Quod permittat, but a w^ritte of
Trespas. M. 41. E. 3.

And note ye: þ^r there is iiiij. maners of cō-
mon (that is to say) Common appendant, cō-
mon appurtenant, Cōmon in gros, & common
per cause de visinage.

Common appendant: is there, where a man
is seised of a manor to which he hath commō
in other several appendant to the same man-
nor. And this cōmon may not bee occupied,
but with his proper beastes, & such as doth
compester his lande. M. 4. H. 6. Añ 11. H. 6.

And if a man claime common appendant, he
ought to claime it by reason of a mesuage, o-
therwise it is not good. Añ 21. H. 6.

And note that a man may haue common of
fishing belonging to his house as wel as com-
mon of pasture. M. 4. E. 3.

And know ye, that Commō appendāt may
not be seuered from the landes to which the
common is belonging. And if the tenements,
to which a common is belonging come in the
possessiō of him þ^r hath the land, out of which
the common is purchased then the common is
extinguished in his person. And if the tene-
ments afterwarde be seuered by alienation,
as they were afore, then the common is ap-
pendant as it was before, after Scot. M. 4.
E. 3. M. 5. H. 7

Common appurtenant is when a mā pre-
scribeth to haue comon appendānce to his lād
with

with al maner of beastes, & this cōmon may be made in gros. C. 37. H. 6.

Common in gros, is wherē a man prescribeth, that he and his auncestors hath had to common in the land beastes without number, & he may occupy his commō with what maner beastes that he wil, & may take beastes of a straunger to giest &c. M. 5. H. 7.

Common per cause de visnage, is whers the towne of Dale, and the towne of Hale are adioyning, and the Lorde of Dale and his tenants hath vsed to common in the wast ground of Hale, because of his neighbourhead A. 22. H. 6.

And note ye that to land newly approued, a man shal not haue common, but to auncient land hide & gaine. H. 10. C. 3.

If a man graunt to me to common w̄ my beastes wheresoever his beastes go, & after he occupieth & manureth C. acres of lād w̄ his beastes, & after it happeneth so, þ he hath no other beastes, yet I shall haue my common in the sayde C. acres of lande. But if a man graunt to me to common wheresoever his beastes goeth (it is sayde by Martyne) that I shal not haue common, but when he comoneth. A. 40. H. 6.

Note ye: that it was said by Fairefax that if one hath a way belonging to his manor, or to his house by prescriptiō, this way may not be made in grosse, for that that none may take profit of that way, except he that hath the house, to which the way is belonginge. But a common appurtenant may be made in gros,

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gross, & aduowson appendant may be made in gross: for that the people may haue profit of them, notwithstanding that they haue not the lande. But of common of Estouers to be vsed in a house, may not be seuered and be made in gross, nor common appendant, which is by reason of the tenure &c.

A writ de Quo iure.

REx vic' salutē, Si A. fecerit re secur' &c, tunc sum
&c, B. q̄ sit corā &c, ostens. quo iur' exigit cōmu-
niam pasturæ in terra ipsius A. in C. sicut idem B.
nullā habet cōmuniā in terra ipsius A. nec idem B. ser-
uicia facit, quare cōmuniā in terra A. habere debet,
vt dicit. Et habeas ibi, sum & hoc breue, Teste &c.
This writ lyeth, where a man hath cōmon
of pasture in another mans seueral (after
the time of memory vnto this present day)
then he to whom the seueral belongeth, shall
haue the said writ, by which he shalbe char-
ged to answere, by what title he claimeth to
haue common of pasture in the seuerals of the
plaintife. And note ye: that the lord may not
put out the tenant of the cōmon: for if he put
him out, he may haue assise against the lord,
for that that the tenant was seised of the cō-
mon after the limitation of assise. But it is
conuenient that the lord haue this writ, and
this writ is geuen to trie the right. And the
process is in this writ, Somons, attachmēt,
& distresse, vntil the party come, & when the
party commeth & pleadeth in the right to the
action, and after make default, then shall goe
a graund distresse in place of a petit cape. And
this

this w^rit shal be determined by battail, or by graund assise as wel as any other w^rit of right

And know ye, y^t this w^rit lieth for tenant of y^t ground, but not for him y^t claimeth com=mon by Herle. An. 2. E. 3.

A Quo iure brought by two, thone was no= suit, and the other was receiued to sue sole, and the defendant iustified by prescription &c. And therefore he went quite, E. 11. H. 3.

A Quo iure may be brought against several tenants. D^r if they and their tenants enter=common because of bycynage, or of tyme wherof memorie doth not runne though y^t the one gain al his land or inclose, yet he shal haue his common with the other, and the o=ther shal haue a w^rit against him for to haue his common.

¶ A writ de admensurazione pasture.

R. Ex vic' salutem. Questus est nobis A. quod B. in=inst^e superonerauit cōmunem pasturam suam in N. Ita quod in ea plura habet animalia & pecora quam habere debet, & ad ipsum pertinet habend'. Et ideo tibi præcipimus, quod iuste & sine dilatio=ne admēsurari facias pasturam illam. Ita quod prædictus B. non habeat in ea plura animalia & pecora quam habere debet, & ad ipsum pertinet habend' secundum liberum tenement suum quod habet in eadem villa. Et quod prædictus A. habeat in pastura illa tot animalia et pecora quot habē debet et ad ip=sum pertinet habend', ne amplius clamorem aud' pro defectu recti, Teste &c.

This w^ritte lyeth where there are manye free tenauntes whiche hath common of pasture

pasture belonging to their freeholde, and one of them surcharge the cōmon, otherwise thē he ought, then he that is greeued by this surcharge shall haue this w̄rit. And know ȳe: that this w̄rit lieth for one of the cōmoners or for al but they shal not haue it against the Lord. And if one of them bring a w̄ritte of M̄esurement al these commoners shal be admeasured, as well these that bringeth not the w̄rit, as he that bringeth the w̄rit. And this proces is in this w̄rit, as is ordained in the Statute of Westm. 2. cap. 7. which beginneth Custodi de ceteri &c. that is to say, Somons, Attachment, & distres peremptory with p̄clamation made in two countes. And if the party come at the proclamation then the p̄le shall passe betwixt them. And if he come not at the proclamation, thē the mesurement shal be made by his default.

Note ȳe: that in this w̄rit, it is no p̄le for the defendant to say, that hanging this w̄rit the demaundant put him out of his common, & of that he hath alise hanging for that, that he is seised of the tenementes, for the which he surcharged the pasture. An 8. E. 2.

If I haue cōmon in a maner because of bisinage, & the lord surcharge that common, I shal haue a w̄rit of mesurement against him: for ȳe, that I am not his tenant. En temps E. 3.

And know ȳe after Hussey, if there bee but two neighbours in a towne, whiche entercōmoneth in others lande, a w̄rit of M̄esurement lieth not betwixt them, for the one may not

not say, that the other hath surcharged his common: for his common is the freehold of the other, and his freehold may not be surcharged. **H. 19. E. 3.**

This writ lyeth not against him which hath common appendant, nor against hym þ hath common by especially to beasts without number: But against him which hath common appurtenant, & common by especially to a certaine number of beasts &c. **H. 22. E. 3**
Lib. ass. placito 45.

In a writ of Mesurement of pasture, hee declared that where the defendant hath common in a certayne place because of his tenure, and there hath the defendant put moe beastes then haue ought of right, and shewed the number and the surplusage of the beasts, the defendant said, that there is another that hath common in the same place, which is in full life not named in the writ. And by some men it was sayd, that a man shall not haue an Action against one, against whom he hath no cause of action. But by this action al shall be admesured, and it is no prejudice to them, for that, that they haue all that, that right will. **H. 7. H. 6.**

A VVrit of secunda super-
oneratione pasture.

REx vicecomiti salutem. Monitraluit nobis A qd
cum ipse breue tibi nostrum nuper detulisset de
communi pastaura sua in N.admensurand, quam
B.iniuste superonerauit, et tu pasturam illam per
præceptum nostrum, prout mos est in regno nostro,

K.j.

ad-

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admensuraueris, idem B. pasturam illam post admensurationem prædictiterum iniuste superoneravit, in ipsis A. dampnum non modicū et grauamen, et contra formam statuti in huiusmodi casu prouisi, et quia eidem A. iuxta formam eiusdem statuti subuenire volumus, ut teneamus, Tibi præcipimus, quod in propria persona tua ad pasturam illam accedas, et per sacramētum proborum et legalium hominum de balliuua tua, p̄ quos rei veritas melius scire poterit de secunda eiusdem pasturæ superoneratione, diligenter inquiras: et si sup inquisitionem illā pasturam prædicta per præfatum B. post primam admensurationem iterum iniuste superonerat inueneris, tunc de auerijs illis in pastura prædicta ultra debitum numerum post primam admensurationem positis, vel de precijs eorundem nobis ad Scaccarium nostrum respondeas, & superonerationem amoueas. Teste &c.

This writ lieth, where Mesurement hath ben made, and he that first surcharged the common, another time surchargeith it, hee that is so greuen shall haue the said writ. And note ye: that this writ is sometime original, and sometime iudicial. And in the case afore said it is original, & it is a Justices not returneable, but that the shirife shall go in proper person to the pasture, and he shall make inquire by lawfull men of his bailywick of the superoneration, and if it be found, the shirife shall answe to the Barons of the Exchequer for beasts, which were in the pasture ouer and aboue the due number. And when it is iudicial, then it shall go out of the common banke to the shirife commaunding him that

that he go to the place where the measurement was made, and inquire in the presence of the parties, of the second surcharge: and if it be found, the inquisition shalbe sent to the Justices of the common bank vnder his seale, and the scales of the Jurors, and after the inquisition returned the Justices shal iudge the parties their damages.

And know ye, that this writ lyeth not but where a mesurement hath ben made betwixt the aforesaid tenants, for if any purchase the state of one which was partie to the mesurement, he shall not haue this writ of seconde surcharge, for he is not helped by the Statute of Westm 2. cap. 8.

And know ye, that a writ of Mesurement may be remoued out of the Countie into the common bank by a Pone, aswell at the suit of the plaintiff, as at the suit of the defendant: But it shalbe al times with cause. And then the writ of the second surcharge is judicial, as is aforesaid.

¶A writ de Rationabilibus diuisis.

R Ex Vic' salutem, Praecipimus tibi quod iuste &c.
fac' esse rationabiles diuisas inter terram A. in C.
et terram S. de R. in D. sicut esse debent & soient:
vnde idem A. queritur: quod praedictus S. plus inde
trahit ad feodium suum quam ad ipsum pertinet ha-
bend'. Ne amplius inde &c. pro defectu iusticie.
Teste &c.

This writ lieth in case where there is two
Lordes in diuers townes, & their leignio-
ries toyneth together. If any parcel of land

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of the one seigniorie hath bene incroched by little parcels after the time of memozie, vnto this present time, then the Lord of whose seigniorie the parcel of land was incroched, shall haue the said w^rit against the lord that hath incroched. And know ye, that this w^rit is a Justicies and may be remoued by the Pone out of the county into the common bāk. And this w^rit hath bene made betwixt divers townes and diuers persons, & not other wise. And the proces is, Somons, graund Cape and petite Cape.

A writ of Perambulatione facienda.

REx vicec' salutem. Præcipimus tibi q^d assumptis tecum xij. discretis & legal militibus de co^m tuo et in p^rpria persona tua accedas ad terrā w. de S. in C. et terrā R. de A. in N. et per eo^r sacram fieri fac' pambulationē int̄ ter^r ipsius w. et ter^r p^d R. in C. quia prædicti w. & R. posuerunt se coram nobis in perambulationem illam. Et scire facias Iusticiariis nostris apud westm. tali die, (vel Iusticia^r nostris ad primam assisam) sub sigillo tuo, et sigillis quatuor legal Militum ex illis, qui perambulationi illi interfuerint, p^r quis metas et diuisas perambulatio illa facta fuerit. Et habeas ibi nomina Militum, et hoc breue. Teste &c.

This w^rit lyeth in case aforesaid, where parcel of land of the one Lord hath bene in such maner incroched by long time past, then by assent of both the lords this w^rit shall be purchased. And in this w^rit is no proces: but the shirife shall take with him the sayd parties and chiefe men dwellinge in the sayd seigny-

seigniorie, and go to the saide place where the incrochment was made, and there they shall make Perambulation, and order the seigniories as they were in old time, before the incrochment. And know yee, that these two wrights lie not, but where that incrochment hath bene made from yeare to yeare by little parcels out of time of minde vnto this present time. But where the incrochment hath bene made but of late time, then lyeth the wright. And know yee, that the wright of Perambulation fac' alwaies is made by agreement of the parties betwene dyuers townes in one Countie. And the parties betwixt whom the Perambulation shall bee made, shall come to the Chauncerie and graunt that Perambulation shall bee made betwixt their lands. And the agreement shall be intolled, or thereof a Deditus potestatem may be made.

Anno 8. E. 3,

Note ye, that a tenant in dower may haue this wright. But the Perambulation shall be made betwixt him in the reuersion, and the defendant in this wright, and not betwixt the tenant in dower & the defendant. Anno 12.
H. 3. Itin Eborum.

A writ de Annuo redditu.

Ex vicecomiti salutem. Præcipe A. qđ iusté &c.
reddat B. &c. C. li. quæ ei aretrō sunt de annuo
redditu xx. li. quas ei debet. vt dic'. Et nisi fec' &c.
tunc sum' &c. ostens. quare non fecerit. Et habeas
ibi sum' et hoc breue. Teste &c.

Aliter in comitatu.

K. iij.

Rex

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REx vicecomiti salutem. Precepimus tibi, quod iustities A. quod &c. reddat D. de. C. centum sol, qui ei aretro sunt de annuo redditu x. li. et vnius robæ, quam ei debet, ut dic, et sicut rationabilit &c. ne amplius &c. p defectu iusticiae. Teste &c.

This writte lyeth in case, wher a man graunteh to an other by writinge anie summe of money or rent, to take every y eare of his cosers, or of his chamber, or of his manor. And after such graunt, that summe of money or rent is behind: then he to whom the rent is graunted, shall haue the said writ, and by this writ recouer the summe of money or rent that is behind, and his damages. But if the lands or tenements be charged with a Distres for such rent behind, then he may distraigne in the lands or tenements: and if the distres be from him deforced, then he shall haue assise. And know ye, that this writ of Annuitie is not to be sued by executors: but in place of this writt is geuen a writ of Debt, which shall be made in the Detinet, and not in the debtor: and in the same manner shall be of wheat, barley, and other such like. And know ye, y in this writ & in a writ of det vpon an obligatio, & in like cases wher he ought to shew especially in declaration, in such writs it is conuenient, y the name of the plaintiff or defendant agree with the specialtie, or otherwise the writ shal abate, if y partie that challenge. But in a writ of wast brought by him in the reversion, & in a Formedon in the remainder, a man ought not to shew especially afoze y it be demanded by the partie

partie, though that the name of the plaintiff, or the defendant in the writ be not according to the especialtie, the writ shall not abate, as it appeareth M. 41. E. 3. in a writ of waſt. And the Proces is Somons, Attachement and Distres infinite.

And note ye, that of all annual rent going out of landes or tenementes, and not of a chamber a man ought to haue this writ.

Note, that if annuity be graunted out of a church in one county, & the grantee is feised of the annuity in an other county, si grantee may chose in which countie he wil bring his writ of annuitie. M. 4. H. 6. M. 13. E. 3.

In this writ the declaration was challenged, for that that the plaintiffe supposed the seizon by the hands of the defendant & hys predecessors, where he was not feised by the hands of the defendant: and not allowed. M. 22. E. 3.

The declaration was challenged, for that that it was the yeare of the Incarnation, & not the yeare of the raigne of the king: and not allowed. H. 16. E. 2.

If annuitie be granted vpon condition, the plaintiffe shall not shew that in his declaration, but he shall make his declaration simple, & the defendant shall not haue aduantage of that, by way of ples in abatement of the declaration, but he shall plead that by way of barre. H. 11. E. 4.

If a man grant annuity of a gowne, price xx. s. the writ shalbe brought of the gowne, price xx. s. without speaking of þ xx. s. if the

grauntere wil, or he may haue a w^rit of the xx^s. without speaking of the go^rone, & in this case the w^rit shal not abate though that it be not according to the w^riting. But if the w^rit agree with y^r grant, then the w^rit shall abate for the noncerteinty: for by the w^rit y^r de^rmaund ought to be certain. H. 3. H. 6.

If I graunt an annuity of xl. s. to one of the kings chapleins, vntil he be promoted by me to a competent benefice: In this case if I profer to him a benefice which is wroth tenn marks, y^r which he refuse, that is a good extinguisment of the annuitie: for the benefice shal haue relation to the value of the annuitie, & not to the estate of the parson, to whom it is proffered, though that he be a man of great estate. Quod nota. H. 3. H. 6.

If annuitie be graunted vpon condition, that is to say, vntil the grauntere be promoted to a benefice, or to giue his counsel &c. And the grauntere brings a w^rit of annuity of the arrerages, & the grauntee sayeth, that such a day he proffered to him a sufficient benefice, or that he de^rmaunded his counsel, & y^r grauntee that refuseth: in this case the grauntee shall not aunswere to the arrerages before the tender, for that, that by the tender, the annuitie is determined: and of these arrerages, before the extinguisment, the grauntere is put to his w^rit of det. If the grauntere haue acquittance of the arrerages before the extinguisment, he shal not plede that in a w^rit of Annuitie, for he shal haue aduantage to plead that in a w^rit of det. M. 16. G. 3.

If Annuitie be granted out of certain land
it is in election of the grauntee to bring assise
or a writ of annuitie. H. 18. E. 2.

In a writ of annuitie if the defendant shew
acquittance of the arrearages, yet the plaintiff
shal haue iudgement to recouer the annuitie,
aswell as in a writ of Meane, the defendant
pleadeth, not distreined in his default, the
plaintife shall recouer the acquitall straight
way. H. 30. E. 3.

In a writ of Annuitie against one J. and
declared that the said J. by a deede that he
sheweth graunted to him one annuitie of xx.
s. by the yeere, going out of the mannor of
Dale, the defendant said, that after the acti-
on brought, he hath received x. markes of
the arrearages of the said annuitie, and so hath
he abated his will. And it was holden that
that was no plee to discharge the writing,
except that he shewe another writing, as it
is upon an obligation, els it is no discharge.
H. 22. E. 3.

If a Parson of a church hath licence of the
patron & ordinarie to graunt annuitie, this
graunt of Annuitie with such licence shall
charge his successor for euer without any o-
ther graunt or confirmation of the patron &
ordinarie. And that is as strong in the lawe,
as they all had ioyned in graunt, or confir-
med the graunt made by the parson alone.
Tamen quere. P. 6. H. 4.

If annuitie be granted to another for his
counsell giuen & to be giuen, the grauntee is
not bound to go to the grauntee, but to give
his

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his counsel wher the graunt is. P. 45. h. 6.
C If a man graunt to me an Annuitie of xx.
s. by yeere payable at the feaste of saint Mi-
chael, & at the Annuntiation of our Ladie, &
the deede beareth date the fourth day of Fe-
buarie, I shall take the first paiment at the
feast of the Annunciation next after the date
of the deede, notwithstanding, that the feast
of saint Michael be the first day in the deede.

¶ A writ de Consuetudini- bus & seruitijs.

REx vicem salutem. Precip A. quod iuste &c. faci-
at B. de C. cons. & recta seruitia sua, quae ei face-
re debet de libero tenemento suo, quod de eo tenet in
N. vt in redditibus, arr & alijs &c. (vl sic) vt in secta
curie & in alijs &c. Et nisi fecerit &c. te secur, tunc
sum &c. ostene quare non fecerit. Et habeas &c.
Teste &c.

This writ is a writ of right and wil be de-
termined by battaile, or by great Assise.
And lieth wher I or mine auncestors after
the limitation of Assise was not seised of the
customes, or of the seruices of our tenaunt.
But afore the limitation we were seised of y
seruices & of the customes of our foresaid te-
nant: than for to reconer the saide seruices, I
shal haue the said writ. And the proces is so-
mons, graunde Cape, and petit Cape. And it
is to know, that this writ may bee pleaded
in ij. maners, that is to say, by one affirma-
tive, and two negatiues: this affirmative is
called a writ of customes and seruices. And
this writ supposeth alwaies, that the Lorde
is

is actor, and the tenuant defendant. And the Lord by this writ may demaunde against his tenant that holdeth the ground of him without meane, to demaunde rent or suit to courte or fealtie, and such maner of services, wher-
of the Lord, or his auncestors were seised by
the hande of the tenuant, or his auncestors
as of rent going out of the same grounde, or
in his demeane, as of fee and of right, by rea-
son of whiche rent the corporall seruice is mo-
vable. And for that some people were wont
to declare of the right in their declaration of
his owne seison as of fee & of righte. But of
other seruices that are not remouable, a man
ought not to declare but as of fee, & of righte
without demeane. And this writ is al wholy
in the right: where homage is graunted, and
knowledged by the tenant in plee pleading, in
whiche casc lieth nether battaile nor great as-
sise, nor in this writ ought the solet never to
be written. And know ye, þis writ ought
to be pleaded by the same delais, as the Quod
permittat, but in this writ of right, is demaun-
ded tenementes in demeane after customes &
seruices denied. And by the Lorde Gilbert
de Preston lieth not the view, that is to say, if
the deforce or hold not is . tenementes in þ same
towne, wherof the demaundant claimeth di-
uers seruices to him as well as in the Quod
permittat, and this writ may be pleaded in the
Countie before the Shiriffe, or Justices of
the common Banke by the Pone, but better it
is for the chiefe Lorde to pleade before the
Justices of the common Banke, then in the
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Countie, for the disclaimer of the tenant, to whom no paine is giuen vpon the disclaimer in the countie. But if the disclaimer be afore Justices of record, then an action is giuen to the lord to demaund those tenements in demeane, out of which the seruices doth go. And if the lord be wise, he may purchase such maner of seruices, that if they be behind for default or distresse he shall haue remedie, after the forme as is conteined in the Statute of Westminster 2. Cap. 21. which beginneth, Cum in statuto &c. And with that agreeeth the Statute of Gloucest. Ca. 3. which beginneth, Ensement si home lesse &c. And the one of these writtes of Customes and seruices negatives is open, and beginneth thus, Prohibemus tibi ne iniuste vexes &c. And the other is close, and beginneth thus: Vice salutem. Prohibemus tibi quod non permittas A. quod distringat B. ad faciendum ei consuetud' et seruic' que de iure facere non debet nec solet &c. And the writ that is open is betwixt the tenant actor, and the lord defendant, but after that the tenant hath declared for suit and damages, the lord defendeth the wordes of the court, and in the replevin say, that he distreined not the tenant for the customes and the seruices, wherof the declaration is to the wrong, and not to the right, and after shewe all the declaration of the writ of Customes and seruices, and profer his suit to be good, and after the tenant, which was actor afore becommeth demaundant and shall defend by battaille, or by graund assise, as they ought to do. And it behoueth of fine force, that the tenant know=

knowledge to hold the tenements which are in demaund of the same lord, by some seruices, or otherwise a writ of escheat lieth. And if he will, this writ at the first shall be brought in the court of the same lord, that strained, if he hath court, and there shall the tenant plead as long as the court may do right. And when the court may make no right, the shirife at the suggestion of the pleintife by vertue of such a clause that is conteined in the writ, that is to saye, Et nisi feceris &c. may make a Tolt out of the lord's court into the countie, and from thence remoue the plee afore the Justices of the comyn banke by a pone if he will after the order of y writ of right open. The writ negative cloise is of Customes and seruices not due, & lieth in case, when the lord straineth a man for customes and seruices not due, that nothing claimeith to hold of him, and namely, when the tenant that is strained, knowledged no seruices to be due to the lord by his hand, and that is a writ of Right, and he that is aday shal become defendant, and the contrarie, and such writ will be determined by battaile or graund assise, as in the Quo iure. And there is difference betwixt this & the Ne iniuste vexes, for that that the Ne iniuste vexes wil all times be open, and the writ of Quod permittat close. And the plaintife that bringeth the Ne iniuste vexes, claimeith to hold of the lord that straineth, and knowledgeth in maner part of his seruice of him demaunded, and part de nieth. And he that bringeth his writ close

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declareth not to holde of the Lord the tene-
ments and no seruices of him demaunded to
be due by him to the Lord. And if the tenant
be wise at the beginning, hee shall cause his
beastes to be deliuered by repleuin, for if the
tenant may auerre that the Lord, nor none of
his auncestors were never seised by the hande
of the tenant, or of his auncestors, or of any o-
ther tenant of the same tenements of the ser-
uices demaunded after the limitation of the
assise, the repleuin shall serue him: but pera-
uenture the Lord was seised by longe conti-
nuance of þ seruices demaunded, though that
it was by wrong by the hand of the tenant, or
of his auncestors, then the repleuin may not
help, but than he ought to bring the Ne iniu-
ste vexes, or if hee bee destrained by the chiefe
Lord for suit, than in such case he shall bring
a writ formed vpon þ statute of Mark Cap.8
which beginneth. De secti quidem faciend sc.
Note yee, that a man may haue acquittance
of the seruices in thre maners, that is to say,
by deede that counteruailleth acquittance, or
for that, that the Meane is seised of other
such euene seruices by the hand of the tenant,
as the Lord Peramount demaunded of the
tenant, or for that, that he and his auncestors
of time, whercof sc.

ote yee, that this writ is of diuers na-
tures, some are writtens of right determina-
ble by battaille, or by graund assise, and that
may none vse, but he that of cleere right may
speake, and some are mixed in the possession,
& that in diuers maners, for some is brought
of

of the seison of the demaundant, by the hand
of the deforceant, and such writ shalbe in the
Debet and solet, and some the seison of the
auncestour onely, and such writ shalbe in the
Debet onely, without the solet, and shal de-
clare for dāmages for the possession, by which
this writ that will be tried in the possession
may a man vse, though that he may not tri-
the right, as tenant in dower or by the cur-
tesie, and if the deforceor will disclaime, than
the tenant in dower or by curtesie shall haue
aide of him in the reuersion, for that, that he
may not be partie to such hie aunswere, that
is to pleade in the right without him in the
reuersion to whome the action is giuen by the
disclaimour.

A writ de Contra formam
feoffamenti.

Ex balliuis R. de B. salutem. Cum de commu-
ni consilio regni nostri Angliae prouisum sit, ne
quis occasione tenementorum suorum distring. ad
sectam faciend' ad curiam dominorum suorum, ni-
si per formam feoffamenti ad sectam illam, aut ipse
vel eorum antecessores tēn illa tenentes, eā fac'con-
sueuer' ante p̄m transf̄ domini H. R. proauii in Bri-
tan̄, vobis præcipimus, q̄ non distring. A. ad faciend'
sectam ad cur̄ p̄dictam de N. contra formam pro-
uisionis p̄dictar̄, &c distinctionem, quam ea oc-
casione feceritis, sine dilatatione relaxetis. Teste, &c.
This writ lieth where a man infeoffeth an-
other of certeine landes or tenements by
Charter of feoffement, to make certeine ser-
vices and suits to his court, and the lord, his
heire,

heire or his assignes distaine his tenant to make more seruices than is contained in the said Charter, then this said tenant may haue the said w^rit directed to the lord, commaunding him that he distreine not the saide tenant to do other seruices than his Charter will, as it is giuen by statute of Mart Cap. 9. which beginneth : De sec^t siquidem faciend^r &c. for none shall be bound to make suite to the court of his lord otherwise than is contained in his Charter. And the proces is attachment and distresse vntil the partie come. And know ye, that this w^rit ought to be brought there where the plaintiff claimeth by dissent, and not by purchase. And also if any be distained against the forme of any statute, he may haue a prohibition and vpon the prohibition attachment, but he shal not haue attachment afore the prohibition sued. And note ye, that if any heritage of which one sole suit is due descend to manie parceners, then by the foresaid statute, he that hath the auncient part shall make the suit for all, and these other shal make contribution, & if they will not hee shal haue against the a w^rit, De contributione facienda, which w^rit and many other that toucheth this matter shalbe found in the Register among w^rits of the statutes. And the proces is as in a w^rit of Decimus protestatione de fine leuando.

Note yee, that in this w^rit, the defendant demanded hearing of the deede of feoffement and the demand was not allowed.

M.3.6.1.

Note

Note ye, that if there be the Lord and the tenant, and the Lord is seised of two courts that is to say, one court in Dale, and of another in Hale, and the tenant holdeth of the Lord of the manor of Dale, and suit to the same, and it is agreed betwixt the Lord and the tenant, that the tenant shal make suit to the court of the manor of Hale, for the suit due to the court of the manor of Dale, the Lord in this case may distrayne his tenant to make the suit to the court of Dale, as hee ought, for the suit abydeth all times due to the court of Dale. And the same law is, if the Lord by agreement take ij. s. of rent by the yere, in allowance of suit, and so is seised by the space of xl. yeres, and at the last the ij. s. are behinde, and the Lord demaundeth his suit, in these cases the tenant may not maintaine a writ of Contra formam feoffamenti against the Lord. M. 3. E. 2.

A writ of Mesne.

REX Vicec' N. salutem, Præcipe A. quod iuste &c.
Racquietet B. de seruic' quod C. ab eo exigit de
libero tenemento suo, quod de prefat A. tenet in N.
vnde idem A. qui medius est inter eos, ipsum acqui-
etare debet, vt dic'. Et vnde queritur quod pro de-
fectu eius distringitur, & nisi fecerit &c. Teste &c.

This writ lyeth where there are Lord,
Mesne and tenant, & the Lord straineth
the tenant for the seruices, that the Mesne
ought to do to the Lord going out of the
land, then shall the tenant haue this writ a-
gainst his Mesne. And if the tenaunt haue

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any writing making mencion of any acquitall, or finall concord of his next Meane of whom he claymeth to holde the ground, or of his auncestors, or any seisin of any acquitall, by the hande of the same Meane, or of hys auncestors, if the meane do demaunde what he hath to bynd hym to the acquytal: then must he shew it. And after that the Meane hath entred into the acquitall, for to acquire the tenaunt of the seruices requyred by the chiefe Lord, the same meane may haue another writ against his meane betwixt him & his Lord, and so of euery of them. And thys writ of Mesne, and wrights of Customes and seruices aforesaid, shalbe pleaded by the same delayes, as a writ of Trespas. And the proces in this writ is Summons, Attachment, and Distres. And day shalbe geuen before that the great distres shalbe returned, so that ij. shire courts may be holden, & proclamation shalbe made in those ij. shire courts, that the Meane shal come at the day contayned in the writ for to acquire the tenant, and if hee come not at the said day, then shall he loose the seruices of his tenant, and shalbe foriudged of his leigniorie, and the tenant whiche bringeth this writ shalbe immediate tenant to the chiefe Lord, and shall do the same seruices & suites, as hys Mesne did to the sayd chiefe Lord. And that is geuen by the statut of Westm 2.ca.9. which beginneth. Cum capitales domini &c. Neuerthelesse, the tenant shall not be prohibited to sue the proces geuen by the common law, that is to say, Summons,

mons, Attachment, and Distres, til the partie do come, if it bee for his profit, for if the tenant holdeth of his Meane, by lesse seruices then the Meane holdeth of the chief lord, and the tenant sueth the proces geuen by the statut, & the Meane is foriudged of hys seigniorie: then must the tenant do the same seruices to the chiefe Lord that the Meane did, whiche were greuous to the tenant, and therefore may the tenant chuse, whiche of the two processes he wil sue in this case. And by the same statute this proces aforesaid, nor this foriudging is not geuen, where there be many and sundry mesnes betwixt the superior Lord and the inferior tenant, but in case where there is onely one meane. And also this foriudging is not geuen of right, but onely for the tenant of fee simple against the Meane of fee simple. Neuertheles at the common law, there was a writ of Mesne for the tenant in taile, and tenaunt for terme of lyfe, and that is proued by the said statute, where it is said, Pro tenente in dote per legem Angliae, & ad terminum vitæ, vel per feodium talliatum, nondum est remedium prouisum &c. But that is to be vnderstanding, þ that remedie as concerning the foriudger, is not ordayned for such tantautes, but the tantaunt may haue a writte of Mesne, as yt doth appeare by the same statute.

And note ye, that a writ of Mesne may be pieded in the shire Court before Justices of the common place, or Justices of Eire, nor the distresses shal not cease vpon the tenant.

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thouḡ the w̄rit were purchased vpon the
Mesne, because the chiefe Lord hath alwaies
his recourse to his fee, for to distraine for his
custoines and seruices with arrerages of the
same. And note ye, that a man may haue ac-
quittance of seruices in dyuers maners. s. by
deede, or because that the Mesne is seised of
such seruices by the hande of the tenant, as
the chiefe Lord demaundeth of him, or be-
cause the Mesne and his auncestors hath ac-
quitted the tenant and his auncestors at all
tymes, or because he doth holde of him in
Frankmariage, or in dower, or in frankal-
moigne. And note ye, that in case the Mesne
be ready to acquire the tenant of the seruices
due to the chiefe Lord, and the chiefe Lord
doth distraine the tenant for the same serui-
ces, then shal the tenant haue a w̄rit dyrec-
ted to the Shirife of the same shire, rehear-
sing how that the Mesne is ready &c. com-
maunding him, that he shall not suffer the
tenant nor the Mesne to be strained by the
said Lord, nor otherwise to be vexed by rea-
son thereof. And note ye, that if the Mesne
do commit a felonie, for the which he is at-
tainted, in this case thineriorz tenant shall
become immediate tenant to the chiefe Lord
of such seruices as he did to the Mesne. And
note ye, that this w̄rit may bes remoued out
of the shire Court into the common place
by a Pone.

Note ye, that equalnes, or oueltie of ser-
uices is, where the tenant holdeth an acre of
land of the Mesne by vj. d. and the Mesne
hol-

holdeth the same acre ouer by vi. d. that is good oueltie, for that, that the tenant holdeth by that, that the Mesne holdeth & no more, but if the Mesne hold by more seruices then the tenant holdeth of him, that shal it not be said oueltie of seruices. P.4. H.6.

And it is not conuenient for the plaintife to shew the certaintie of the tenure betwixt the Mesne and the Lord aboue, for then shal follow, that the tenure betwixt the Mesne and the Lord aboue shalbe tried betwixt the Mesne and the tenant, and that shalbe no reason if the plaintife declare that he holdeth of the Mesne in frankalmoigne, and that he and his auncestors hath acquited him & hys predecessors tyme out of memorie &c. thys declaration is not double, for the frankalmoigne is no cause of the acquitail, except that he shew the gift. s. how the defendant and his auncestors which gaue in frankalmoigne, which is good cause of acquitail without more, or to prescribe, that he and his auncestors hath vsed to acquite the plaintif, by reason of frankalmoigne, and he haue not prescribed in frankalmoigne, and hath not shewed the beginning of the gift, but hath shewed the prescription general, the whiche is good cause, and the other is but boide, if the plaintife prescribe, that the defendant ought him to acquite against the Lord parmont, and all other, and it is found for the plaintife, that the defendant ought hym to acquite against the Lord, this prescrip-
tion of acquitail against al the other is void.

A. 39. B. 6.

If the plaintife declare that he is distrayed by one D. for seruices of the Mesne, and that the Meane holdeth of D. Where there is two Lordes betwixt the Meane and D. the defendant may plead in abatement of the declaration, that he holdeth not of D.

P. 44. E. 3.

The Lord, Mesne, and tenant are, and the Meane bindeth himselfe by fine, to acquyte the tenant against the Lord, and his heires, the Lord taketh a wife, and hath issue and dyeth, the wife is endowwed of the Heygnis, and distrayned the tenant parauaile for the seruices of the Meane, in this case the Meane shall acquite the tenant agaynst the wife tenant in dower, though that he be not heire to the Lord, for that, that the reversion of the seruices is to the heire. P. 31. E. 1.

The Lord, Mesne, and tenaunt are, the Lord distrayned the tenant parauaile for release after the death of his father, in this case the Meane is not bound to acquyte hym againt the Lord, for that, that the aunswere that should discharge him lyeth naturally in his mouth. M. 17. E. 3.

The Lord and tenaunt are, and the tenant maketh a lease for terme of lyfe, yelding certayne rent, and the Lord distrayned the lessor for the seruices of the tenaunt, and the lessor bringeth a writ of Mesne, the defendant shall say, that the plaintife hath nothyng but for terme of lyfe, and he shal not shew of whose lease, iudgement &c. It is conuenient

for

for the plaintife to maintaine that hee hath
fee, otherwise the w^rit shall abate, for that,
that the w^rit lyeth not for tenant for terme
of lyfe, but a w^rit of Covenant, and to say
that he holdeth of the lease of the defendant,
the reuersion to him that will make no issue.

C. 17. E. 3.

The Lord, Mesne being a woman, and the
tenant, the Meane byndeth her selfe to ac-
quyte the tenant, and after taketh a husband
and hath issue, and the tenat releaseth to the
husband, that he nor his heires shall not bee
bound to acquitall, the husband and the wife
dyeth, the tenant parauaile bringeth a w^rit
of Mesne agaynst the issue as heire to hys
mother, & he pleadeth this release in barre,
& it was holden that he shall not be barred,
for that, that the defendant is bound as heire
to hys mother. P. 38. E. 3.

The Lord, Mesne, and tenaunt are, the
Meane doth graunt by fine the seruices of
his tenant to a straunger in fee, to whom the
tenat parauaile doth not atturne, the graunt-
tour doth take a wife, and taketh estate to
hym and to his wife, and to the heires of the
bodie of the wife, and for default of such is-
sue, the remaynder to the right heires of the
husband, and they haue issue a sonne, and the
husband dyeth, in this case the sonne shalbe
charged of the acquitall, in y w^rit of Mesne,
if he may not auerre, that the tenant attur-
ned to the graunt, and the wife shall not bee
charged. B. 40. E. 3.

The Lord, Mesne, and tenant are, the te-
L. iij. nant

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nant is a woman, & taketh a husband which are distrained for the services of the Mesne, in this case the husband, and the wife shall haue a w^rit of Mesne against the Mesne, & they shal declare that the wife is distrained, as well as the husband, supposing that the wife hath propertie of the goodes during the espousels, and yet the declaration is good.

P. 24. E. 2.

Note ye, that foriudgement against the husband and the wife, is not void, but errour, for he shall not haue a Cui in vita. M. 9. E. 2.

In a w^rit of Mesne, supposing that hee is distrayned by one R. whereof the defendant is Meane, the defendant said that another time the plaintife brought a w^rit of Mesne against him, supposing that he is distrayned by one W. in the same land, and that we are meane betwixt them, so supposeth he that W. hath the seigniorie, iudgement of the w^rit that supposeth R. to haue the seigniorie and not allowed, for if there be two or thre^e Lordes every one aboue other, if any of them distaine the tenant parauaile, his suit is against his Meane, and he shall haue a w^rit ouer, and so his ple^r is no ple^r to the w^rit.

P. 29. E. 3.

The Lord of a hundred, Mesne, and tenat are, the tenant doth holde of the Mesne by homage and escuage, the Lord demaundeth suit to his hundred, of the tenant parauaile, in this case the tenant shall not haue a w^rit of Mesne, for as concerning the suit to the hun-

hundred, the Lord shall aduow vpon hym
that is tenaunt of the lande, for otherwise
he may not do, notwithstanding there is
meane betwixt them, & for suit that is due,
by reason of the resuance, the Meane shall
not acquite him. M.4. E.3.

If the Lord paramount of whom the meane
holdeth dyeth, hanging this writ, the writ
shall not abate for that, that the writ was
well purchased at one time, and it is no rea-
son that it shal abate by the death of the lord
that is a straunger, if it shalbe plez to say
that the Lord is dead, it shalbe to the action,
for the tenant shall haue no remedie by a
writ of Mesne, of that distres taken in the
life of the Lord, but of a foriudger otherwise
is, for there the writ shal abate by the death
of the Lord paramount, for that, that the te-
nant may not be attendant to a dead person.
C.4. H.6. C.13. E.3.

If the tenant do sell the mesnaltie by fyne
hanging a writ of Mesne, and the tenant
sueh forth his writ & foriudged his meane,
notwithstanding this alienation or sale, the
tenant shalbe attendant to the chiefe Lord, &
the graunt of mesnaltie shall not charge
the tenant to attorne H.34. C.3.

If the tenant be distrayned for such serui-
ces that the tenaunt holdeth of the Meane,
he shall haue a writ of Mesne maintenanc,
without any notice made to the Meane, but
if hee bee distrained for other seruices then
the tenaunt holdeth of the meane, then hee
ought to make knowledge to the meane,
and

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and after such knowldege, he shal haue a w^rit
of Mesne, and not afoxe. Aⁿ. 15. B^r. 6.

Note ye, that in a w^rit of Mesne, the
quantitie of the seruices shal not make issue,
as if the plaintife declare that he holdeth xx.
acres of land of the defendant by certain ser-
uices, and sheweth whiche & how he holdeth
ouer by many other seruices, and how the
plaintife is distrained, the defendant shal say,
that the plaintife holdeth x. acres of the xx.
acres by certaine seruices, and shew whiche &
by many other mo seruices, that the plaintif
hath not supposed, and that he holdeth these
other x. acres by other seruyces then the
plaintife hath declared, & demaunded iudge-
ment of the declaration, now the plaintife
shal say by protestation, not knowyng xx. a-
cres are holden by many other seruices, as
hath bene alleaged, but that they are holden
by one whole seruice in the maner &c. Quod.
nota. Pa. 2. B^r. 5. C. 16. E. 3.

Tenant for terme of lyfe, the tenant shall
not haue a w^rit of Mesne against y^r meane,
for he is not tenant to him, but to him in the
reuersion: but if he be distrayned for homage
he shall haue a w^rit of Mesne, for he may
not do homage. M. 21. E. 3.

But tenaunt for terme of lyfe, or tenaunt
wher the remainder is ouer in fee, he shall
haue a w^rit of Mesne against the Mesne.
The same law is of tenant in dower. C. 17.
E. 3. Aⁿ 15. B^r. 6.

If tenant by the curteis be of a mesnaltie,
the tenant parauaile shall not haue a w^rit
of

of Mesne against him in the reuersion, leauing the tenant by the curtesie. H. 14. E. 2.

The defendant in a writ of Mesne sayeth, that wher the plaintife hath declared that he holdeth of me, & I. ouer of C. B. I say that I. holdeth of C. B. as in ryght of his wyfe, and it is thought that it a good place, for otherwise if the tenant ought to recover by this writ, the Mesne shalbe charged to two acquittals, the one by estoppel, and the other because of the mesnaltie against C. B. and his wife, as in the right of hys wyfe. H. 22. E. 4.

If the Lord distrayne the beastes of hys tenaunt wher there is a Meane, the mesne may put hys beastes into the Pounde in gage for the beastes of the tenaunt, and shall haue a Repleuynge, and pleade wyth the Lord, and so euery estate saued, and if the Mesne refuse to helpe his tenaunt by this maner, the tenaunt shall haue a writ of Mesne vpon the speciall matter. A. 6. H. 4.

In a writ of Mesne, it is no good declarayon, to say, that the defendant and hys auncestours hath acquyted the playntife and hys auncestours, and those whose estate hee hath, but hee shall say, that hee holdeth of hym by Homage, Fealtie, and certayne rent, of whych seruyses hee is sei led, and sayeth that hee and hys auncestours hath acquyted the playntife and hys auncestours tyme out of mynde &c. C. 11. Edw. 3.

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A writ de Querela frisçæ fortæ.

Vix domini Regis apud VV. in Guildhalda eiusdem villæ secundum consuetud' villæ illius, ac libertatem burgens, villæ illius per diuersos Reges Angliae conc', & per dominum Regem nunc confirmat', coram Iohanne S. & A.T. Ball' villa prædictæ die Lunæ proxim post festum sancti Bar' Apostoli, Añ regni E.4. 9. Ad hanc Curiam venit T. Abbas sancti Petri de Hyde, iuxta VV. in propria persona sua, & queritur versus Thomæ L. capellani Cantuarie beatae Mariæ virginis, in ecclesia sancti Petri in L. de placito Assisie frisçæ fortæ, dicendo quod idem Tho. L. iniuste & sine iuditio, ac vi recenti disseisivit eum de libero tenemento suo in VV. post primam transfretac' domini H. filij Regis Iohannis in Vascoñ, & infra queretenam &c, inuenit pleg. de prof. querelam suam I.H. & I.S. Ideo secundum consuetudinem villæ prædictæ, præceptum est R. F. & R. VV. seruétibus domini Regis ad clauas in eadem villa & ministris curi præd', quod reseil. fac' tenement' prædictum de catallis q' in ipso capte fuer, & ipsum tenement' cum catallo esse in pace usq; ad prox. curi coram Maiore & Balliis ciuitatis præd' in Guildhalda prædicta, tali die prox' futuri tenend'. Et interim fac' xij. liberos & legales homines de viciñ præd', infra præcinctum libertatis villæ prædictæ videre teñt illud & nomina eorum imbreuiari. Et quod sum eos per bonos summonit' quod tunc sint parati inde facer' recognit'. Et qd' poñ per vadios & saluos plegios prædict' T. vel Balliuum suum si ipse inuentus non fuerit, quod tunc sit hic auditur illam recognit'. Et quod tunc habeant hic summonit' nomina pleg. &c. Et super hoc idem Abbas posuit loco suo I.H. versus T.S. de prædicto

dicto placito. Ad quem diem p̄fati Seruient̄ es
retorn̄ hic panellum de nominibus recogn̄, q̄ huic
rotulo est consutum. Et testatur quod ijdem recogn̄
sum sunt per Adam Pie et R.S. quorum vterq;ae
manuacipit per Iohannem Done, R.S.T.I. &c
T.S.

This w̄rit lyeth in case where a man is
disseised of tenements that are deuisable,
as in the citie of London or other borough
or towne that is franchised, then the dissei-
se shall come into the Court of such a towne,
that is infranchised &c. and entre his playnt,
wherin he shall shew how he is disseyled,
and vpon that shall twelue men lay their
verdict in like maner as in assise of Nouel
disseisin.

And know that the cause why that it is
called fresh force, is for that, that if the dis-
seise cause not his plaint to be entred, nor
recouered within xl. dayes, he shall be put to
his recouerie at the common law, that is to
say, to Assise of Nouel disseisin. Ideo q̄re. And
if þ Maioz & the ministers of the court will
not award execution of þ iudgement of this
fresh force: then the party pursuant or plain-
tif shal haue this w̄rit following to haue ex-
ecution after the forme of this plaint, & shall
be directed to the baillifs of the same towne.
And the w̄rit of Execution is such.

REX Balliuis I.de C. salutem. Præcipimus vobis
quod executionem iuditii nuper redditi in curia
nostra de S. fine breui nostro inter A. et B. de qua-
dam frisca forcia eidem A. per p̄fatum B. in R.
fact(ut dicitur) fine dilatione fieri faciatis. Teste

&c.

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&c. Et Sicut alias et cum Pluries if neede be &c.

A writ de Ex graui querela.

REx Maiori et Vic' London salutem. Ex graui querela I. filie E. et VV. sororis eiusdem I. accepimus, quod cum secundum consuetudinem in eadem Ciuitate hactenus obtentam et approbatam, liceat vnicuique; Ciui eiusdem ciuitatis tenet sua in eadem ciuitate in testamento suo in ultima voluntate sua, tanquam catalla sua, legare cuicunque voluerit: ac S. Ciuis ciuitatis praedictae iiii. mesuag. cum pertinuerit in eadem ciuitate in testamento suo et ultima voluntate sua, E. habend' sibi & hered' suis de corpore suo exequuntur, legasset &c. R. et D. vxor eius, duo mes. et tres shropas inde praefatis I. et VV. filiabus et heredibus eiusdem R. detinent minus iustum, in ipsorum I. et VV. dispendium non modicum et grauamen. Et quia eisdem iniuriari nolumus in hac parte, Vobis precipimus, quod vocatis coram vobis partibus praedictis, auditisq; hinc inde earum rationibus, inspectoq; tenore testamenti praedicti, eisdem I. et VV. fieri faciat debitum et festinum iustitiae complementum, prout de iure et secundum consuetudinem praedictam fuerit faciendum, et hactenus in casu consimili fieri consuevit. Teste &c.

This writ lyeth where a man is seised of certaine lands or tenementes in fee, within a Citie, Towne, or Burrough, whiche lands or customes are deuisable, and he by his testament deuise to a man the sayd tenementes, and dyeth, if his heire or any other man enter in the said landes or tenementes so deuised, then the deuisee or his heire shal haue the said writ against the heire of the deuisee,

sour, or against any other man that abated, not regarding in what manner degree that he is in, after the devise made, if the deuysour dyeth, the devise not adnulled in the lyfe of the deuysour.

And know ye, that this w^rit shal nener be pleaded afore the kinges Justices, but all times afore the Maioz, and the Bailifes of the Cittie or Borough, or afore the Bailifes whers there is no Maioz, or afore the Baylifes of any towne, or afore Bailifes of fee, or seigniorie, wher there is such usage.

And know ye, that no freehold may be devised, but wher such usage is, for every devise of freehold is against the common law, but the law suffers such devises to be made because of such usage of so long tyme vsed. And the proces is such, that the tenant shal be summoned to be afore the Maioz and the Bailifes at a certaine day, to shew wherfore the other ought not to haue execution, and if he can nothinge say agaynst hym, then the demaundaunt shall haue execution.

Note ye what deuyses are good, and what not, and who shall devise, & of what thyng, and who shall haue aduantage of the devise.
M. 22. E. 3.

If land be denised to a man by testament, without shewing what estate he shall haue, he hath nothing but for terme of lyfe.

Note ye, that the husbande may deuysle lande in fee, or for terme of lyfe to hys wife.
M. 3. E. 2.

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A woman may not devise lande by her testament to her husband, for because she may not make testament but by the assent of her husbande, and that is the deede of the husbande to make estate to hym selfe, whiche is against the law. Añ 3. E. 3. Itin Not.

Land deuiseable is geuen to the husband & his wife, and the heire of their two bodyes begotten, and for default of such issue to remaine to the right heires of the husband, the husband deuised the same remainder to hys wife that is tenant in taile, & dyeth without issue betwixt them, this deuise of remainder is good. Añ 27. E. 3. Lib. ass. plac 40.

A woman seised of certayne land deuiseable taketh a husband and hath issue, and the wyfe deuise the lande to her husband and dyeth, now he shalbe iudged in, as tenaunt by the curtesie, and not as tenant by force of the deuise, for the freehold beginneth in him afor the deuise. B. 29. E. 3.

A man deuysed landes for terme of life, and deuised further, that his executors should sel the reuersion and dyeth, the executors solde the reuersion without deede, for because that is but a contract, and the reuersion passeth by the authoritie of the deuisee, and the testament is the cause that the reuersion passeth. For if a man make a Priest his executors, and deuised that his executors shall sel the reuersion, that is good without deede, for otherwise it shall never take effect, for a Priest may make no deede that shall bynde him, and a fine he may not leuie, for that, that he hath nothing

nothing in that. M. 19. H. 6.

A wife of the assent and will of hir husbande maketh a testament & deuised by the same halfe þ goods of the husband & maketh her executors, who proueth þ testament by þ assent and will of the husband, that is a good devise. M. 5. E. 3. P. 39. E. 3.

If a man deuise land whereof he is not sei-
sed, if after he purchase the lande, the deuise
is good. M. 26. H. 6.

Note yee : if land be deuised to a man and
to his heires males of his body, and he hath
issue a daughter which hath issue a sonne, the
sonne shall enherite, & yet of a gift otherwise
it is. H. 7. H. 6.

Note yee that þ king may not deuise land
by testament, nor give nothing but that, þ he
hath in possession, by For. M. 37. H. 6.

Note yee : that executors may pay þ debts
aforesayd deuise performed.

It is saide that there is diuersity betwixt
a graunt and a deuise, for if one deuise land to
me for euer, or to any assignes for euer &c. and
speaketh nothing of his heires &c. that are
words of inheritance, yet the deuise is good
to take effect in the deuisee as a fee simple, for
that that his will & entent shalbe taken in
this case &c. T. 2. H. 6. M. 18. H. 6.

If a man deuise goods & dieth, the deuisee
may not take goods without lucry of þ ex-
ecutors. M. 37. H. 6.

If a man deuise a booke, or any other thing
to one for terme of life, and after his decease
the reuertion to another for euer, if the ex-
ecutors

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utors deliuer the goods to the first devisee
& after þ delivery the devisee dieth, then the
second devisee may seise the goods without
liuery of executors: for possession of the first
is the possession of both, whiche was denied
by some men, therefore enquire the law, E.

37. B. 6.

If two iointenantes are, and the one de-
uyle all that, that to him belongeth, to a
straunger and dyeth, this devise is boyde.
Causa patet &c.

q A writ de Communi custodia.

REx vic' salut. præcipe A. q iustè et sine dilatione
reddat B. custodiam terræ et hered' D. et E. quæ
ad ipsum B. pertinet, eo quod prædictus D. terram
suam de eo tenuit per seruitum militare, vt dic', et
nisi fec. et prædictus B. fecerit &c. tunc sum &c.
Teste &c.

This writ lieth where a man holdeth lads
or tenements of another by knights ser-
vice, and the tenant dyed, his heire within
age, a straunger entreth in the landes & ob-
taine the swarde of the body, then the lord of
whom this land is holden, shal haue the said
writ. And the proces is in this writ, Ho-
mons, Attachment, and two distresses and
day shalbe gauen afore the seconde distresse
returnd þ thre shire courts may be holden.
And this proces is gauen by the statute of
Westm 2. cap. 35. which beginneth. De pue-
ris masculis sive &c. And with that agræd
Marl

Mark cap. 7. which beginneth. In plato vero de
coi custodia &c. As to the distresse, but not to
the proclamation. And also wil the said sta-
tute, that if the defendant come not at þ pro-
clamations made in the three counties, the
plaintife shal recover the warde for the time,
sauyng another tyme the right of the defen-
daunt when he will speake. And also if the
warde belongeth to the Lorde by reason of a
warde that he hath in possession, & a straun-
ger obtayne the same warde, the Lorde shall
haue the said writ, but the commō p̄oces is,
as afoze was vsed in the common lawe, and
the lord shall holde the warde by reason of
the warde vntill his full age, and this is the
cause, for that that it is a chatel in him, & he
is thereof seised, & he may not þe put out of
possession afoze the full age of the heire. And
know ye: that if the gardein make waite in
any parte of the ward, he shal lose the ward,
and ouer that he shal yelde damages to the
infant, & if the wardship loste sufficed not to
the value of the damages afoze the age of the
heire he shal make greement of the remenāt.
And that will the statute of Glouc Cap. 5.
in the middes which beginneth. Ensement est
puruieu &c.

¶ A writ de Entrusion de garde.

R Ex vicecom salutem. Si A. fec' te &c. tunc sum
&c. B. filiū ethered' D. quod sit coram &c. of-
fens. quare cum custodia ter' ethered' ipsius D. ad
ipsum A. vsque ad legitimam aetatem praedicti
M. ii. her

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her̄ pertinet, ratione dimissionis, quam A. de B. de quo predictus. D. terram suam tenuit per seruitum militare, inde fecit predicto A. et idem B. infra etatem existens, se in terram predictam intrusit, & custodiam illam a prefato A. adhuc detinet, ad graue dampnum ipsius A. ut dicit. Et habeas ibi sum & hoc breue &c. Teste &c.

This w̄rit lyeth where the infant within age entred into his lands and holdeth his Lord out, the Lord shall not haue þ foresaide w̄rit de Cōi custodia, But this w̄rit of Intrusion of warde.

C Note yee: þ an Abbot shal haue this w̄rit of Intrusion, of an Intrusion made in þ time of his predecessor, & he shal make mention in his w̄rit þ the agreemet was not made to his predecessor nor to him. C. II. B. 4.

C A writ for the valure of the marriage.

REx vic' salutem. Si A. fecerit te secūr &c. tunc sum B. filium et hered̄ C. ostens, quare cum maritagium predict' B. ad predictum A. pertinet, eo quod predictus C. terram suam de eo tenuit per seruitum militā, & idem A. predict' B. dum infra etatem fuit, competens maritagium obtulerit, idem B. maritagium renuens, prefato A. de maritagio suo nondum satisfecit, sed adhuc satisfacere contradicit, ad graue dampnum ipsius A. et contra formam statuti predicti, ut dicit. Et habeas &c. Teste &c.

This w̄rit lieth where the Lord profereth cōuenable mariage to þ Infant without disparagement, and hee refuse, the Lord shall haue

haue this w^rit, whereby he shall recover the
single value of the mariage &c.

Awrit of forfaiture of marriage.

REx vic' salutem. Si B. de A. fecerit te secūr de
clam suo &c. tunc suū &c. C. filium et hered^d
D. quod sit &c. ostens. quare cum maritagium ipsi-
us C. vna cum custodia ducentarum acra^r terre cum
pertinⁿ in R. ad ipsum A. pertineat ratione dimisio-
nis. F. cui G. eum dimisit, de quo predictus D. ter-
ram suam tenuit per seruitum militare, inde fecit
prefato A. & idem A. præfato C. dum infra eta-
tem fuit, competens maritagium absque vlla dispa-
ragatione, iuxta formam statuti de communi con-
silio regni nostri inde prouisi, sepius obtulerit, idem
C. maritagium illud recusans, se sine licentia & vo-
luntate ipsius A. marita^r fecit, & se in terram pre-
dictam, prefato A. pro maritagio suo non satisfacto
violent^t intrusit, & de maritagio predict^r eidē A. sa-
tisfacere contradicit, ad graue dampnum ipsius A. &
& contra formam statuti prædicti vt dicit. Et ha-
beas ibi suū &c. Teste &c.

This w^rit is given by the statute of Mer-
ton Cap. 6. and lieth where the Lord pro-
fereth conuenable mariage to the infant
without disparagemet, and he refuse, and he
being within age mary himselfe, in this case
the Lord shall haue the w^rit of forfaiture
of marriage, and recover the double value.
And if this gardein hath recovered the va-
lue of the mariage against the rauishour, if
hee profer to the heire a conuenient marri-
age, and hee refuse to bee married, and after

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marry him selfe, the lord shal not recover the double value of the mariage, for that, that he tooke the value of the mariage of the rauyshoz. And if the heire that is rauished be married without assent of the rauishment, & after the gardeine recovereth the value of the mariage against the rauyshoz, in this case the rauyshoz shal not haue this w^rit of Forfaiture of mariage against the heire, for the heire may plede that he hath no right of the seigniory, nor y lord shal not haue a w^rit of Forfaiture of mariage, for that, that he hath receiued the value of the mariage against the rauyshoz. Note ye: that some mens opinions is that in a w^rit of Forfaiture of mariage, the value of the mariage is not geuen to the lord, where he hath the land in his hand, by reaso of which he hath the wardship, but it y heire abate in the lande at his full age afoze that he hath agreed with the lord for his mariage, he shal haue the said w^rit, for that is mentioned of in the w^rit, but in case that hee hath not the wardship of the lande, he shall haue the w^rit aforesaid, for there shall bee no mention made of the abatement of the heire into the land.

Land was geuen to the husbande and his wife, & to the heires of their two bodies begotten, and hath issue a sonne, the husbande dyeth, and after the wyfe dieth, and the lord seyle the warde, and profer to him mariage, the which he refuseth and marieth himselfe, and at his ful age he entred in his land without greement made to the lord, the lord bringeth

geth a w^rit de Quare se intrusit maritatio non
satisfacto, in the whiche w^rit he did suppose þ
the defendant was heire to his father, wher
the mother suruiued & the defendant pleaded
that in abatement of the w^rit, and the w^rit
was awardeed good: for that, that it is in the
personalty, & it is a personal wrong made by
him self to whiche he ought to answere. And
the gardein shall recouer the double value of
the mariage. H. 14. E. 3.

¶ A writ de Rauishment de garde.

¶ Ex Vic' salutem. Si A. de B. & E. eius fece-
rint &c. tunc pone &c. quod sit coram Iustic'
nostris ad primam assisam &c. ostens. quare I. filium
& heredem H. infra ætatem existentem, cuius
maritagium ad ipsos A. & E. pertinet, apud VV. in-
uentum rapuit & abduxit contra voluntatem ipso-
rum A. & E. & contra pacem nostram.

Et si heres sit in eodem comitat, tunc addat ista
clausula.

Et interim diligenter inquiras vbi ille heres est in
balli tua, & ipsum, vbiunque inuentus fuerit, capias
& saluo & securé custod', ita quod eum habeas ad
prefatam assisam corum præfatis Iusticiarijs (vel co-
ram nobis) ad prefatum terminum, vel cor' præfa'z
Iustic' nostris ad prædictum diem, ad reddendum
cui (vel quibus) dictorum A. E. & I. reddi debet.
Et habeas ibi nomina pleg. & hoc breue. Teste &c.

Ostens. quare cum custodia Iulianæ filiae vnius
her' G. ad ipsum B. pertineat ratione venditionis quā
A. de T. de quo prædictus G. terram suam tenuit p
seruitum militare, inde fec' eidem A. præd' B. & C.

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predictam Julianam infra etatem in custodia ipsius A. apud N. existent, vi & armis rapuerunt & abduxerunt, & bona & catalla ipsius A. ad valent &c, ibidem inuenient ceperunt & asport &c.

This writ lieth in case where any lord is in possession of the wardship of the land, & of the body, and a stranger rauishe the body of the infant without any other thing, then the lord shall not haue the foresayde writ, De comuni custodia: but this writ of Rauishment of warde, that supposeth the infant to be rauished with force and armes. And for that, the proces is, as is contayned in the aforesayde statute, that is to say, Somons, Attachment, and distres, and for default of distres, proces of utlalawyc, as in a writ of Trespas.

And note ye, that when the heire is ratyshed in one countye & brought into another county, then the lord shall haue such a writ, the which is geuen by the statute of Westm 2. Cap 15. which beginneth, De pueris masculis, sive femellis, quorum maritagium &c.

REx vic' salut. Questus est nobis A. quod B. nuper de C. filium & heredem I. infra etatem et in custodia sua apud M. in com L. existent rapuit, & de com illo ad talem locum in com tuo abduxit, contra voluntatem ipsius A. & contra pacem nostram. Et ideo tibi precipimus quod predict C. vbiunque in balliuua tua inuenient poteris capias saluo & secur custod, ita quod eum habeas coram Iustic nostris tali die, ad reddendum cui predict A. & B. reddi debeat &c.

¶ De

¶ De herede abducto fiat tale breue.

REX &c. Ostens. quare cum custodia ter^r & heredis D. vsque ad legitimam aetatem eiusdem heredis ad ipsum A. pertinet, eo quod predictus D. ter^r suam &c. Et idem A. in plena & pacifica seisa-
na &c. predictus D. filium & heredem &c.

And þ proces is, as is aforesaid in þ writ
of Rauishment of Warde &c.

And note ye: that if any man holdeth any
lands or tenements of any Lord by knights
service and dieth, his heire within age, the
same Lord may enter in that wardeship of þ
land, & take the body of the heire. And if one
tenant hold. ii. acres of land severally by se-
uerall seruices, the Lord of whom the lande
is holden by the auncient feoffement shal haue
the Ward of the body, & that is geuen by the
statute of Westm. 2. Cap. 19.

And note yee, that there is two maners of
writs of ward. The one is where a man hol-
deth of another landes by knights seruice:
The other where hee holdeth in Hocage.
The wardeship by knights seruice belongeth
to the chiefe Lord of the fee. And the ward-
ship in Hocage belongeth to the next cosin,
after the statute De wardis 28. E. i. to whom
the heritage may not discende. But in case þ
the mother be on line & the heritage discende
from the part of the father, and the heire bee
within age, the mother shal haue the warde-
ship as wel of the land as of the body, & in the
lame maner shal the father haue & so shall o-
ther cosins & auncestors haue.

And in case that the next frend be deforced
of

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of the Ward, he shal haue this w^rit.

REx vic' salutem. Præcipe A. quod iustē &c, redd' B. custodiam terrī & heredis C. quę ad ipsum B. pertinet, eo quod prædictus C. terram suam tenuit in Socagio, & prædictus B. est propinquior heres ipsius C. vt dic'. Et nisi fecerit &c. Teste &c.

And if the heire in Socage bee rauished and not maried, then the gardayne shal haue this w^rit.

REx vic' salutē. Si A. fecerit te &c. de &c. tunc pone &c. B. quod sit &c. corā Iustic' ostens. quare cum custod' terrī & hered' C. usque ad legitimam aetatem ipsius hered' ad ipsum pertinet, eo quod prædict' C. terram suam tenuit in socagio: & prædict' A. propinquior est her' ipsius C. infra aetatem, & in custod' ipsius A. existē apud N. inuenē vi & armis cepit et abdux, & alia enormia ei &c. vt in breuide transgressione.

Aliter qn̄ maritatur. Rex &c. vi & armis cepit & abduxit &c. ipsum sine licentia et voluntate ipsius A. maritauit, ad graue &c.

And note y^e: that a w^ritt of Rauishe-
ment of warde for the gardayne in Socage
is not geuen by the Statute of West. 2. Cap.
35. which beginneth: De pueris &c. But for
that, that v^r Statute of West. 2. Cap. 24. is
quod querentes non recedant a Cancellarī sine re-
medio: this w^ritt is geuen by the common
counsel of the Chauncery, and the w^rit was
that he claimeth the warde vntill he come to
full age, and the w^ritte was awarded good:
Note y^e: that gardenship in Socage may not
be solde. H. 3. E. 2.

And

And note ye: that a man may demaund the wardship in threemanners. One manner is when a man demaundeth the wardship of the lande & of the body by wryt of right of ward, as afore is said. The second maner is, when one tenant holdeth of two lordes, of the one by priority, & of the other by posteriortie: þ lord of the posteriortie may not bring a wryt of warde of the land and the body: for the body belongeth to the Lord of the priority, and there the lord of posteriortie shal haue a wryt of Eiectment de gard. The third maner is whē a man hath the land and not the body, Then he shall haue a wryt to demaunde the bodye without the land, and that by this wryt of Rauishment of warde.

And note in case where the heire hath ben in warde of the lord, and the lord wil not deliver to him his landes at his full age, Then the heire shall haue Assise of Mortdaunceloz and recover the lande with his damages, after that, that haue come to his full age, As it appeareth by the Statute of Mart Capitulo 16. Which beginneth. Si heres aliquis &c.

And note ye: that if the infant bee marayed in the life of his father, though that after the death of his father he is within age, and the wife of the heire dyed, the lord shal not haue the mariage for that, þ he was one time married. In the same maner is if the lord marry the Infant & his wife died, he being within age, the lord shall not haue the mariage another time.

It

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It is said that there is gardeine in right & Gardein in deede, for if the gardeine in deede let the iande to a straunger for yeres, a wxit of Dowter, or a wxit of Ward is not mayntenable against him, but against þ lord. Otherwile is where the gardeine in right, or gardein in deede, lets his estate without wyrtinge vntil the ful age of the infant, in which case the wxit shall bee maintayned against those lessers.

And note: that if the heire hath beeene in Ward, he shal pay no relief but where his auncstor held of the king by knights seruice, or by fee farme, that payeth knight seruice, the king shal haue the ward of al the lands & the body, & when he commeth at his full age, he shall pay relief to these other lordis, after the quantitie of his tenure, as it appeareth by the great Charter cap. 2. But the heire in franke Socage, when he commeth to his ful age after the death of his auncstor he shall double the rent that he was wont to pay to the lord and that shal be in place of relieve, As it appeareth by the statut de wardis & releuijs Cap. primo.

Note ye: that Socage may be said in ij. maners, that is to say, Socage of free tenure, Socage of auncient tenure, & socage of base tenure. Socage of free tenure is where a man holdeth by free seruice of þ. v. by yere for al manner of service, or by other seruices yereþ. And in this Socage the next cosin to the infat to whom the heritage may not descend, shal haue the ward as it is aforesayde.

Socage

Socage of auncient tenure is of land of auncient demesne wher no writ original shalbe sued, but the writ of right, y is called Secundum consuetudinem manerij. **S**ocage of base tenure, is of those that holde in socage, & may haue none other writ but y Monstrauerunt, & such **S**ockmē holde th by no certain seruice & for that are they not free lockmen.

A man shal haue a writ of Rauishment of warde of the body notwithstanding that he was never in possession of the body, for maintainer after the death of his tenant, the heire being within age, the possession of him is adjudged in the lord by the act of the law.

If a man make a feoffement by deede or by fine of landes holden by knights service, or suffer any recovery against him to his vse vpon trust & diech, his heire shal pay relieve if he be of ful age & that by the statute of An 4. H.7. cap.7.

And if the tenant in socage make feoffement to his vse, the lord of whom the land is holden after the death of his tenant, wherof no will is declared, shal haue his relieve and heriot & al other dueties, as he ought to haue had, if the tenant had died seised. And that by the statute of An 19. H.7. cap. 15.

In a writ of Rauishment of warde &c. It was sayd that if the tenaunt of a Bishop die, his heire within age, and after the Bishop died and seyse not the Infant in his life, the succellour may seyse, or haue a writ of Rauishment of warde. And it was sayde, that it is no ples in a writ of Rauishment of

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of ward to say, þ the auncstor of the infant held not of him, for whether he holdeth of him or not, it shal not be lawfui for no man to rauish the ward from him without affirming titie in himselfe. P. 2. H. 4.

In a wxit of Rauishement of warde the plaintife declareth þ the fater of the infant holdeth of him a manor by knights seruice in H. &c. & that the defendant hath him rauished & in the wxit þ infant was made heire to his fater, because þ the fater died seised of the said manor in his demesne as of fee. And the defendant alledged that þ grandfather of the infant died later seised &c. so ought he to haue ben made heire to the graundfather, & not to the fater, & that was no plesse wout shewing þ the graundfather died later seised by title, for it may be that he was in by abatement, & after the issue was taken, that the graundfather dyed later seised of fee, without that, that the fater died seised of fee, & the plaintife maintained that the fater dyed seised of fee &c. H. 10. E. 3.

A wxit of Rauishement of warde was brought against iiiij. men & a woman, the inquest said that the men were guilty of the rauishement, & not the woman, but that she married the infant to her daughter, & for þ was she likewise adiudged guilty as þ other were, & the plaintife recovered the value of þ mariage without damages, & they awarded to prison by the statute of West. 2. cap. 1. And it was demaunded of þ plaintif if they were sufficient or not, & he said that they were: for other-

otherwise they ought to be awarded to perpetual prison, or abjured the land by the same Statute. C. 8. E. 3.

¶¶ A writ de Eiectione custodie.

REX VIC' SALUTEM. Si A. fecerit &c. tunc sum per bonos &c. B. quod sit &c. tali die ostens. quare custodia terre & hered' D. vna cum maritagio usque ad legitimam aetatem eiusd' heri ad ipsum A. pertineat pro eo quod praedictus D. terram suam tenuit de eo per seruic' militare. Et idem A. in plena et pacifica seifina eiusdem custodie diu extiterit praed' B. ipsum A. a custodia illa vi & armis eiecit ac bona et catalla sua ad valenc' C. s. apud D. inuenit cepit et asport. et alia enormia &c. et contra pacem nostram &c. Teste &c.

This writ lieth where the lord is put out of the wardship of the land that he hath in his possession, then the lord shal haue the said writ against him that putteth him out. And know ye, that this writ of putting out of the wardship lyeth at al times, when the lord is put out of the wardship of the land without the body. And a writ of Rauiishment of ward lyeth where the bodye is rauished without the land. And a writ of right of warde lyeth where he is put out of both. And it is sayd, that the gardeine in Socage may maintaine this said writ and a writ of Rauiishment of warde, but not a writ of Ryght of warde. By the Register a man may haue a writ of Right of warde, and also a writ of Rauiishment of warde by reason of a ward. And know ye that in a writ of right of warde the procla-

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proclamatiō shal not be made afore the great
distresse retourned, but in a w̄xit of meane in
the great distresse, it shalbe commaunded to
the sherife that he make the proclamation, as
is geue by the statute of Westm cap. 9. which
beginneth Cum capitales domini &c. And also
the same statute Cap. 35. which beginneth.
De pueris &c. Will that in a w̄xit of ryght of
warde proclamation shal be made by default
of the defendant, but by the same statute in
a w̄xit of rauishment of warde by default of
the defendant he shal make no proclamation,
but al times a distresse. And also knowe ye:
that gardein in socage is accomptable at the
ful age of the infant, as it is said in a w̄xit of
accompt, that is to say, at xxij. yeres, and not
afore, but the infant shal haue his iand in his
owne handes when he is of the age of xiiij.
yeres.

And note ye: y of lands holden by knights
service, the statute of Mart cap. 6. which be-
ginneth, De hijs autem &c. Will that where the
heire is enfeoffed, being within age by his
auncestor, that the Lord shall not lose the
wardship by reason of such feoffement made
by such Collusion. And also by a feoffement
made vpon condition by the auncestor yel-
ding to him & to his heires a great summe of
money vnto a certayne terme, at the ende of
which terme the heire may be of full age, and
then to enter into the lande, in this case the
lord shall not lose the wardship, if hee may
prove by his w̄xit of right of warde that the
tenant made the feoffement by collusion, and

if lands be let for terme of life, the remaynder to an other in fee, and he in the remainder dieth, his heires within age: the lord shall not haue the wardship of him during þyfe of the tenant for terme of life: but if the tenant for terme of life dye, the heire beinge within age, and enter into the land by force of the remainder, now the lord shall haue the wardship: for that, that he is heire to his father. And in case that a man let lands or tenements to another for terme of life, sauing the reuersion to him and to his heires: if the lessor dye, his heire being within age, þy lord shall haue the ward and mariage of the heir, notwithstandinge that he hath estate for terme of life, to hold of the chiefe lord of the fee. And also if land be geuen to two: to the one in taile and the other for terme of lyfe, if he in taile die, his issue within age, the lord shall not haue the ward of the wdie: for that that the tenant for terme of life is tenant to the chiefe lord: but after the death of the tenant for terme of life, the heire being within age, he in the reuersion shall haue the wardship, and not the lord.

If the father be seised of certain lands and tenements, and hath issue a daughter within age that is his heire, and marie her to a man of full age, and dieth, the lord shall not haue the wardship: for that that the husband is able to make the seruices due by reason of the land.

But in case that a man marrie his daughter being of full age to an infant, and dyeth,

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in this case the Lord shal haue the wardship,
for the wife may make no seruices duringe
the mariage. Quare.

And note ye, that all wrights of ward except
this wrightte of puttinge out of the warde,
may be pleaded in the countie, and remoued
into the common place by a Pone. And where
the Statute of Westm. ij. cap. 16. which begin-
neth, In casu &c. will, that if landes discende
from the part of the father holden of one man,
and other landes discende from the part of the
mother holden of another man, the Lord of
whom the land is holden by the first fessement
shall haue the wardship & the mariage: but
the tenant by his feoffement may change the
prioritie into the posteriortie. But it is said
if a man come to diuers lands holden of diuers
lords by one fessement, he that first may ob-
taine the wardship of the bodie, shal haue it:
but if landes be holden of the king by knights
seruice, he shall haue the wardship as wel of
the lands holden of other lords by knightes
seruice, as of any other lands holden of him
self, and also shall haue the mariage, hauing
no regard to the prioritie nor to the posteri-
ortie, as it appeareth by the kings preroga-
tive chap. i.

And note ye, that this was iudged for the
Earle of W. anno 20. E. 3. where the Earle
was seised of an infant & of his lands, for y
that his auncstor died in his homage, where
other lands were discended to the said infant
by another auncstor, that was holden of the
king by prioritie or posteriortie: in the one
case

case or other, the kinge shall not haue the wardship of no lands, but of such lands holden of him selfe, nor the wardshippe of the wodie, & the cause is, for that, that the Earle was seised of the ward at one time by true title. And know ye, that if any tenant died seised of any lands holden by posteriorty, and the Lord of whom the land is so holden obteyneth the wardship of the wodie: if after other lands descend to the same infant, that are holden of another lord by prioritie, þ lord that first obtained the ward shall not be put out of the wardship by him of whom the ancestor of the heire held by prioritie: for that that it was a chacie one time in the possession of the lord of whom he held by posteriortie.

And note ye, þ if two coparceners bringe a writ of ward, & the one wil not pursue, the other shalbe received to pursue her right of the half of the land & the whole wodie: otherwile is in all maner of actions personallis, as trespass, debt, couenant or such like, the not-suing of the one, shallbe the not-suing of the other. And note ye, that if an infant be rauyshed & maried by the rauishor to one, whereby he is disparaged, he may forfiske his wife if he hath not knowen her carnally before the age of xiiij. yeres.

Note ye, that these words were in þ sayd writ, Quare custodiam terræ & heredis: and it was challenged. For this writ properly hath relation to the land, & he may haue an other writ for the wodie: & notwithstanding þ writ was

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Was awarded good. C. 2. E. 1.

Note ye, that this said writ was brought of land & rent, and was challenged for that the rent may not be holden: for the mesne is tenant of the land having regard to his lord, and of him he holdeth the land and not the rent. For these writs of Ward, Escheat and Cessauit are not geuen of rent &c. but after of good will the defendant passeth oner. Ideo quare. H. 13. E. 3.

In this writ of putting out of the warde by reason of a devise, such a clause was in the writ, et blada sua apud H. nup cresceñ mesuerūt, et blada illa ac omnia al bona et catalla ibid inuenēt, ceperunt et asportauerūt contra pacem: & for that, that this writ was graunted vpon the right of the seigniorie, and within the same an action of trespass against the peace was comprehended: so is there comprehended in the same action, two actions of diuers natures, wherefore the writ abated. H. 11. E. 3

If an Infant being aboue the age of xiiij. yeares make affiance in the life of his auncstor, and after his auncstor dyeth, notwithstanding this affiance, the lord shali haue the mariage.

Also if the Infant be maried in the lyfe of his auncstor, and the auncstor and shee to whom the infant was maried, dyeth, the infant being within xiiij. yeres: the lord shall haue the mariage: otherwise it is if he were past the age of xiiij. yeres at the time of the death of his auncstor, or at the time of the death of her to whom he was marayed: for by the

the taking of the second wife, he is made bigamus to which the law will not constraine him: but if the infant be married by the lord, and shal to whom he is married dyeth, he being vnder the age of fourtene yeares: Quare if the Lord shall marrie hym an other tyme.

An. 7. H. 6.

If the tenant that holdeth by Knighes seruice enter into religion, his issue within age, Quare, if the lord shal haue þ wardshipp during the naturall life of the father, for such death maketh no dissent, that taketh away any mans ente, nor such death intitleth no woman to haue dower during the naturall life of the husband.

A VVrit of Escheat.

REx vicecomiti salutem. Præcipe A. qđ iuste & sine dilatione reddat C. decem acres terræ cum p̄tinenc̄ in N. quas B. de eo tenuit, et quæ ad ipsum C. reuerti debent tanq̄ eschaeta sua, eo quod præc̄ B. bastardus fuit, et obiit sine hæred', vt dic' &c.

Aliter ratione felonie: quas de eo tenuit et ad ipsum C. reuerti debent tanq̄ eschaeta sua, eo qđ præc̄ B. felon fecit, pro qua suspensus fuit, vel vtlagat fuit, vel sic. pro qua regnum nostrum abiurauit. Et nisi fecerit, tunc sum &c. Teste &c.

This writte may be formed in manie manner: for if the verie tenant of any Lord þ holdeth any tenement of him without mesne make felonie, for the whiche he is hanged, or forswere the kings land, or if he be beheaded, or outlawed, or vanquished by battaile to death, or if he be bastard and dye without

M. iij.

heire

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heire of his wdie, or die without heire gene-
rall or special: then if any man enter in those
lands or tenements, the chiefe lord of whom
he holdeth, after a yere and a day of the felo-
nie made, may recouer the tenements afores-
aid by this Writt of Escheat accordinge to
his case, as it appeareth in the Register. And
the Proces is in this Writ, **S**omons, grand
Cape and petite **C**ape. And against the **J**u-
rors **V**enire facias, **H**abeas corpora and **D**istres.

But if the tenant in taile, tenant in dw-
er, tenant by the curtesie, or tenant for terme
of life make felonie, for the which hee is at-
taincted (as is aforesaid) the King shal haue
the Escheat duringe their liues, and after
their deathes, he in the reuersion shall sue to
the King by petition, and shall haue the said
landes out of the Kinges hands, and not the
Lord by way of Escheat, for that, that the
sayd tenants are not verie tenants to the
Lord: For none is called verie tenant, but
tenant in fee simple. Nor haue in the reu-
erson may not haue the land during the lyfe
of such tenants, for that, that the land is ge-
uen to them by the law during their liues
without any such forfaiture to him in the re-
uersion, but the king shall haue the land, as
aboue is said, for the haynous act commit-
ted against his law.

And note ye, that in magna Charta cha. 21.
which beginneth, **N**os non tenebimus &c. Will
that if the tenant in fee simple make felonie
&c. the king shall haue the lands for a yere &
a day, & after to be yelde to the chiefe Lord
immediat

immediat. And the kings prerogatiue ca. 17
wil that the king shall haue such lands for a
yeare & a day, & after the tenements shall bee
wasted & distroyed, that is to say, houses, gar-
dens, woods, & every other thinge belonging
to the said tenements, & after they shal be de-
liuern to þ chiefe lords, except those tene-
ments þ are in Glo. & Kent in gauelkind, & þ is
by custome: for those tenements shal reuert to
þ next heir, as if no felony had ben made. And
note ye, that if tenant in fee simple be attain-
ted of felonie & dieth, his wife shal not be en-
dowed, nor his heir inherite: but if þ tenant
in taile be attainted of felony and dieth, his
heire shal inherite, for that, that he is helped
by the Statute of Westm. 2.ca. 1. þ wil that by
died nor by fessement, the heir in tail shal not
be barred: but in that case þ wife shal not bee
endowed, for that, þ she hath no action at the
common law, nor yet helped by the Statute.

Note ye, that where a man is outlawed
for felonie, euerie action þ he hath for catals,
goods & inheritance, the right thereof is ex-
tinguished in his perso, & he is not answer-
able: but if he purchase his Charter of par-
don, and purchase other lands after in fee, it
is said that his issue shal inherite, but if hys
heire do a felonie, and for the same outlawed
in the life of his father, & after the death of
his father he purchase his charter of pardon,
yet he shall neuer inherite, for that that the
blode baetwixt hym and his father at one
time was corrupted. And note ye, that if a

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man be outlawed for trespass, he shall never be answered in any action parsonall vntil such time, as he hath purchased his charter of pardon: but in any pleie real, to say that he is outlawed of trespass, that is not to the action, but to the person, as Excommengement is. And know yee, that a man shall not haue his charter of pardon for parsonal trespass allowed, except he sue a Scire facias out of the record against the partie, at whose suit he was outlawed, or know wherefore his charter of Pardon shold not be allowed, and that is geuen by the new Statute of Ed. the 3. Anno 5. chapter 12.

And note ye, that if a man be beheaded for felonie by iudgement, the Lord shall haue a writ of Escheat, and shall say that he was hanged: and it shall be no trauers to say that he was not hanged, and that was iudged in the Parlyament. An. 8. E. 3.

In a writ of Escheat, the writ was challenged, for that, that hee supposed, that hee that made the felonie held of the father of the demandant, whose heire hee is, where the writ should be, quod de eo tenet, for that that after the death of his auncstor, whose heire hee is, he was tenant to him because of the seigniorie descended: and not allowed. P. 46. Ed. 3.

If a man hold two acres of land of a man by severall services, & dieth without heire, it is conuenient for the Lord to haue two witts. And if a man hold of me x. acres of land, and above the Statute he make a seofement

ment of one of them to holde of him by. vi. d.
and died without heire. I shall haue a w^rit of
escheat supposing that he holdeth of me. ix. a-
cres & vi. d. of rent & yet in deede hee holdeth
the land of me, and the cause is for that, that
they of the chauncery will not graunt a w^rit
of any forme. T. 14. B. 7.

In a w^rit of Escheat, it is no p^lee for the
tenaunt to say that hee, that the defendant
supposest to be seised, that hee died not seised
of the land, but it is a good p^lice to say that
he died not his tenuant, and that issue shalbe
taken vpon that. M. 2. B. 4.

And by the same reason hee may say, that
he holdeth not of him. M. 3. 7. B. 6.

In a w^rit of Escheat it is not conuenient
for the demandant to shew in his declarati-
on, for what felony his tenant was attain-
ted T. 3. E. 2.

And if he shew any record to proue the at-
tainer, and errorr is in the record, it is not
materiall. M. 14. E. 3.

If my tenant be indged to bee hanged and
after is deliuered to the ordinary, I shal haue
a w^rit of Escheat. B. 34. E. 3.

In a w^rit of Escheat, the defendant may
make discent from his auncestour to him.
M. 13. E. 2.

Note yee: that if rent service bee giuen in
taile, and the tenuant in taile discontinue in
fee, and the tenuant attourne and died with-
out heire, so that the land escheat to the dis-
continue, the tenuant in taile died without
issue, the donour shal haue a w^rit of Escheat,
and

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and not a formedon in the reuerter. H. 33.
E. 3.

By the opinion of Parñ and Trew, that a
a w̄rit of Escheat lieth not of rent, and that
appeareth in a w̄rit de Eiectione custodie. H. 13
E. 3. C. 11. H. 4.

In a w̄rit of Quare se intrusit maritagio non
satisfacto, the opinion is that a rent lyeth in
tenure. H. 4. A. 10. H. 6.

The lord and the tenant are, the tenant
let his land for terme of life yelding certaine
rent, the tenant hath issue & died, the lessee
paide to the heire, and the heire paide the ser-
vices to the lord, as his tenant and make fel-
lonie: for the whiche he is hanged, the lord
shall haue a w̄rit of Escheat: for that, that he
was seised by the hands of him that was at-
tainted as by the hands of his verie tenant.
H. 26. E. 1.

Note ye, that if the disseisie be attainted
of felonie, the lord may enter in the land. C.
6. H. 7.

A writ de Conuentione.

Ex vic' salutem. Præcipe A. quod iuste &c. te-
neat B. conuentionem factam inter ipsum A. &
S. patrem prædicti B. cuius haeres ipse est, de vno
mesuagio &c. (vel sic) inter I. patrem vel matrem,
vel fratrem vel sororem, auunculum, amitam, vel
consanguineum prædicti A. cuius haeres ipse est. Et
C. patrem prædicti B. cuius haeres ipse est. Et nisi
&c. tunc sum, Teste &c.

This w̄rit lyeth where couenant is made
by indenture sealed betwixt two parties,
and the one of them hold not couenant, then
he

he that feeleth him greeued shal haue the said writ. And also if landes or tenements be let for terme of life, or for yeares by indenture, or if the lessor put out the tenant, or if the tenant perfourme not the covenants, he that feeleth him greeued, shall haue the said writ. And note ye, that no writ of covenant shall be maintained without writing. And the proces is **H**ommons, **A**ttachement and **D**istres, vntill the partie come, for default of distresse proces of btaawrie. And the writ of Covenant may be pleaded in the countie, or before the Justices of the common banke, & may be pleaded by the same delayes, as a writ of trespass may. And note ye, that a writ of Covenant lyeth not but betwixt those that are parties to the Covenant, or their heires or their assignes, as the writ will.

Note ye, that this writ ought to be, that the defendant ought to hold covenant of so much land, and not general, as of all þ lands let to him, and the writ of Covenant, for leuying of a fine, shal be certaine of what land **H.46. E.1.**

In covenant the writ was to hold covenant of a mesuage and an hundred acres of lande in **M**. and the Indenture was of all the landes and tenementes in **M**. the writ did not abate for the variance. **Michaelis 47. E.2.**

Note ye, that if a man let lands in **Midd** by indenture þ are in another countie, if the lessee be put out, he shall haue this action of covenant where the lease was made, or in the

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the countie where the land is, notwithstanding that the deede beareth date where the lease was made. C. 27. H. 6.

Note by the opinion of the court, that a w^rit of couenant lyeth not of free hold, if it be not of a speciall matter shewed, as if a disseisor let lands to me with warrant & binde him by Indenture, that if the disseisor enter and put me out, then I shall haue a w^rit of couenant, but if the lessour or any other that hath no right put me out, I shal haue a w^rit of Trespas. C. 26. H. 6.

Note ye, that in London a man shall haue a w^rit of Couenant without w^riting by the custome. C. 17. H. 6.

A writ de Deditus potestatem de fine leuando.

REx dilecto et fidelisuo A. de B. salutem . Cum breue nostrum de conuentione pendeat coram vobis et soc' vestris &c. inter VV. et H. de x. acris terræ, cum pertiñ in N. ad finem inde coram vobis in eodem banco secundum legem leuand' &c. ac prefatus VV. adeo languidus fit, et senio confractus, quod vsque VVestmonaster ad diem in breui praedicto contentum absque maximo corporis sui periculo veni^r non possit ad cognit^r, quæ in hac parte requiruntur faciend', vt accepimus, nos statum eiusdem VV. compatientes in hac parte, dedimus vobis potestatem recipiendi cognit^r quam praeditus VV. fac^r voluerit in præmissis. Et ideo vobis mandamus, quod ad prefatum vv. personaliter accedentes cognitionem suam recipiatis. Et cum eam receperitis, præfat socios vestros inde sub sigillo ve-
stro

stro distincte & aperte reddatis certiores: vt tunc
finis ille inter partes praedictas de terris praedictis in
eodem banco leuari possit secundum legem & cons.
regni nostri. Et habeas &c. Teste &c.

This writ lieth in case where two men are
agreed to leuie a fine in the kings court,
and the one of the parties is so feble that he
may not traualle, then he may purchase this
writ out of the Chauncery to one Judge, or
to two or mo, or to a serieant sworne to the
king, rehearsing how the writ of couenant
hangeth betwixt the parties, & he that hath
pursued this writ of Dedimus potestatem, is so
feble that he may not traualle &c. for to make
the recognisance betwixt them, and that the
Judge in his proper person go to the partie
that is so feble to receiue the recognisance,
and to certifie the Justices of the common
banke, and when they are comen with the re-
cognisance into the court, that the saide fine
shall bee ingrossed and inrolled. And in this
writte is no proces, but where such Justices
hath receiued the recognisance in the maner
aforesaid, and will not certifie their fellowes
of the said recognisance, then the party that
hath made the recognisance may haue a writ
directed to the same Justices commaunding
them that they certifie their fellowes of the
same recognisance vnder their seales, and to
haue another writ directed to the Justices of
the common banke, that they receiue the said
recognisance of them, as it appeareth by the
Register.

A writ

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¶ A writ de Contributione facienda.

REx &c. Margarete B. vel balliuis Margarete B. de
A. salutem. Cum de cōmuni consilio regni nři
prouisum sit, quod si hereditas aliqua &c. de qua v-
nica tantū fiat secta pro heredit̄ illa, sicut prius con-
suet̄ fuit, fiat debita contributio ad eādem, ac VV. M.
de N. custod̄ scolarium de N. alijs quamplur̄ vendi-
der̄ terras & tenementa sua N. de quibus vñica secta
tantum ad curiam predictam de N. debetur: sicut ijj-
dem custod̄ nobis monstrauer̄, vobis precipimus,
quod non distingat custod̄ nisi pro porcionc fibi &
prefat̄ scolar̄ contingent̄ de terris & tenementis pre-
dictis ad seperalem sectam faciendam ad curiam pre-
dictam, vel ad cur̄ predict̄ domini nostri de N. contra
formam prouisionis prædictæ. Teste &c.

¶ A writ de Assisa nouæ dissensine.

REx viceñ salutem. Questus est nobis A. qnod B.
iniuste & sine iuditio diss. cum de libero tenemē-
to suo in N. post primam transfr̄ domini H. regis fi-
lij regis Iohannis in Vascoñ. Et ideo tibi precipimus
quod si predictus A. fecerit te secur̄ d̄ clam suo prof.
tunc fac. tenement̄ illud reseisir̄ de catall̄ que in ipso
capt̄ fuerunt, et ipsum cum catallis esse in pace us-
que ad proximam assisam cum Iustic. nostri in par-
tes illas venerint. Et interim fac. xij. liberos & lega-
les homines de vicin illo videre ten̄ illud, et suū quod
sint coram prefatis Iustic. nostris ad prefatam assi-
sam parati inde facere recogn̄. Et pone per vad̄ &
saluos pleg. prædic̄ B. vel balliuum suum si B. ipse
inuētus non fuerit, q̄ tunc sit ibi ad illam recogn̄. Et
habeas ibi suū nomina pleg. & hoc breue, teste &c.

¶ The

¶ The patent of the same writ.

REx &c. Dilectis & fidel' suis A.B.& C. salutem.
 Sciatis quod constituimus vos Iustic. nostros vna
 cum hijs quos vobis affoc' ad assisam Nouæ dissei-
 finæ capiēd' quam A. arraiñ coram vobis per breue
 nostrum versus B. de tenemento in I. Et ideo vobis
 mandamus, quod ad certos diem & locum quos ad
 hec prouideritis assisam illam capiatis, facturi inde
 quod ad iustic' pertinet, secundum legem & con-
 suetudinem regni nostri, saluis nobis amerciamentis
 inde prouenientibus. Mandauimus enim vicecomiti
 nostro S. quod ad certos diem & locum quos ei
 Scire faciat assisam illam coram vobis venire faciat.
 In cuius rei testimonium has literas nostras fieri fe-
 cimus patentes Teste, &c.

This writ lieth where a man is disseised of
 his free holde. s. of landes, Tenementes,
 rentes, common of pastures or such lyke that
 hee holdeth for terme of life, fee taile or fee
 simple, or where hee hath lande or tenement
 that is deliuered to him by vertue of a recog-
 nisance of the statute marchaunt, or by þ Sta-
 tute of the Staple, or by Elegit, as it appea-
 reth by the Statute of marchaunts, or by the
 Statute of the Staple. An. 27. Ed. 3. Cap. 9.
 And by the Statute of Westm 2. Cap. 18. the
 the disseisne shall haue the saide writ against
 the disseisor, or against whosoeuer is in pos-
 session (luing the disseisor) and it is necessa-
 rie that the disseisor bee named in the writ
 or otherwise the writ shall abate, and that is
 giuen by the same Statute of Westminster se-
 cond. And note yee, that if the Gardein or the
 chiefe

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chefe Lord make a feoffement to any man, of
the lande that is of the heritage of him that
he hath in warde to the disenheritance of the
warde, the warde maintenanc may haue the
saide w^rit and when the lande is recovered, it
shalbe deliuered by the Justices to the nexte
friend of the infant, to whom the heritage
may not discende, and to aunswere the heire of
the profites of the lande when hee commeth
to his full age, as it appeareth by the Statute
of Westminster. 1. Cap. 47. which beginneth.
Si Gardein &c. And looke y^r statute of West-
minster. 1. Ca. 36. which beginneth. Puruen
est ensem^t & accord &c. howe a man shall bee
punished for disseisoun with robbery. Also, if
the Escheteour, Shiriffe, or Baillife of the
king, disseise any man by colour of his office
without speciall warranty or commaunde-
ment of the king: the disseisie may recover by
the said w^rit, and recover double damages:
as it appeareth by the Statute of Westminster
1. Capitulo. 24. which beginneth. Puruen est
ensem^t que nul Escheteour &c. And in what
cases that this w^rit lieth, looke the Statute of
Westminster. 2. Capitulo. 25. which begin-
neth. Quia non est aliud breue &c. And howe
and in what time this w^rit shall bee taken,
looke the Statute of Westminster. 2. Cap. 30.
which beginneth. Assignⁿ de catero duo Iusti-
ciar &c. And in Magna Carta, Capit. 12.
which beginneth. Recognitiones de Nouel dis-
seisin. And looke the new Statute of Ed. 3.
Ann. 2. Capit. 2. & 6. And in the Statute
of fines, Capitulo. 4. which beginneth.

Item

Item cum statuimus &c. And in the statute of Yorke cap. 3. which beginneth. Quod come sil soit contenus &c. And the proces in thys writ is Attachmet against the partie, Summons, Habeas corpora and distresse against the Jurores vntill they come.

And note ye, that freehold is called, where a man holdeth land or tenement in fee simple, fee taile, or for terme of lyfe at the least.

In Assise the writ was pone per vadium & saluos pleg. prædicti I. vel ballium suum, quod sic ibi auditur &c. Where it shoulde be, quod tunc sit ibi, and the Court was in opinion to abate the writ, wherefore the plaintiff was nonsuit. M. 26. H. 6.

Assise was brought by the husbande and the wife, the parties were at issue, but not of the point of the assise, and was founde for the plaintiffes how the wife was disseyed afore the mariage, and that the husband had nothing, so the writ was false, disseisuit eos, and notwithstanding the plaintiffe recovered A. 44. Lib. Ass.

If there be iij. Jointenants, and two disseise the other two, all fower brought Assise against two of them that were disseisours: and the writ was disseisuit eos, so the writte supposeth that the two disseisours disseised them selfes, and notwithstandinge the writ was awarded god.

And if two Jointenants are disseised by a straunger, and after the one come to the tenancie by purchase, if the other wyll recover, it behoueth that both bee named, for

D. i. that

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that, that the wordes of the Swrit may bee
true, quod disseisuit eos. But when one ioin-
tenant puteth out the other, this wordis dis-
seisuit eos is false, for the one may not dys-
seise hym selde, therefore he shal haue a Swrit
in hys owne name. An 24. E. 3. Li. ass. pla. 9

In Assise, the tenant said that the playn-
tyfe is his villaine, iudgement &c. the plain-
tife sayd that he was free &c. and it was
found that he was free, but that he was
neuer seyed of such estate that he myght
be disseised, the plaintife sayd we are at is-
sue out of the poynt of assise that is founde
for vs, therefore they neede not to enquyre
but of the dammages, and after it was a-
warded that he shold take no thing by this
Swrit. An. 3 1. E. 3. Lib. 11.

And note ye, that assise may bee taken in
thi. manners, that is to say, at large, in the
poynt of assise, out of the point of assise, and
right of dammages. Assise at large is, when
an infant bringeth Assise, and the deede of
hys auncestour is pleaded, then the Assise
shalbee taken to enquire at large, that is to
say, if hys auncestour was of full age, of
good memorie, and out of pryson, when hee
made the deede. Assise in point of assise is,
when the tenaunt pleadeth no wronge, nor
no disseisin. Assise out of point is, when
the tenant pleadeth a foreine release, or for-
reine matter tryable in another Countie,
then the Judges shall put the Recorde in
the common place to trie thys foreine plee,
and when that is tried, they shal send againe
the

the Assise. And in right of damages is, when the tenant confesseth a putting out, and demurreth in law, the which matter is judged against him, now the Assise shalbee taken in right of the damages.

Note ye, if the Gardeyne of an infant take a feoffement of the infant beeynge in his warde, the infant shall haue an Assise, and the gardeyne shalbee aiudged a disseisor, and committed to pryson if it bee founde. A. 8. E. 2.

If my tenant be attainted of felonie, and the king graunt the yeare and the day to a straunger, if the straunger bee disseised, I shall haue Assise by al the Court.

And note ye, that seisin of fealtie is no seisin of the rent whereby hee may of that haue Assise.

If the tenant pleade a plee in barre, & the plaintiff make title, and ouers the barre, though the title of the plaintiff be false, yet the tenant shall not haue aduantage to take the Assise vpon the title, but he shalbe charged to maintaine his barre: Otherwise is, where if the plaintiff make to him a title, & aunswere not the barre. H. 4. E. 2.

A man may be tenaunt of the rent by hys disseisine, as if he leuye the rent of my tenuants by cohercion of distresse, but if the tenuant pay to him the rent of his good wil, that shall not be intended the rent that I ought to haue, but another rent, for by such payment without other thinges doing, I shall haue no Assise.

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If rent descend to me after the death of my father, and afore the day of payment of the rent, the tenaunt putteth me in seisin of the rent by an Dre, this seisin is not sufficient wherof I may haue Assise, but if he pay to me a peny as parcel of my rent, notwithstanding that it be afore the day of payment of this possession I shall haue assise, but if I recover rent, and afore the day of payment, the Shirife put me in possession of the rent by an Dre, of this possession I shall haue Assise. P.49. E.3.

A writ of Redisseisin.

Ex Vic' salutem. Monstrauit nobis A. quod cum Ripse in curia nostra corā Iusticiař nostris tantum &c. vel coram dilectis & fidelibus nostris R. & E. Iustic' nostris ad assisas in Com L. capie nd' assign, per breue nostrum recuperauit seisinam suam versus B. de x. acris terř cum pertiñ in I. p recogni Ass. noue disseis. ibi inter præfatos A. & B. capē, præfat B. ipsum A. de eadem terra iniustē disseisiuit. Et ideo tibi præcipimus, qd' assumpē tecū custod' placitorū Cotonæ nostræ, & xij. tam Militē quām alijs liberis & legal' hominibus de comitatu tuo, tam de illis qui in prima iurata fuerū, quām in propria persona tua accedas ad præd' terř, & per eorum sacramentum diligentem facias inde inquisic'. Et si ipsum A. per præd' B. de præd' terř interim iniustē disseisitum inuenieris, tūc ipsum B. capi, & in prisoна nostra saluo custod' fac', ita quodā prisoна illa nullo modo deliberetur sine mandato nostro speciali, & ipsum A. de præd' terra reseisire, & dampna sua in duplum que occasione illius reddiss. sustinuit, per sacrm præd'

xij. taxari de terris et catallis præd' B. in balliuua tua
sine dilatioñ fieri, & eundē A. haber' fac' iuxta for-
mam statuti VV. de h̄modi reddiss. prouis. Et scire
fac' præfāt B. quod inquisitioni illi faciend' interfit
si sibi videret expedire. Teste &c.

This w̄rit lyeth in case where a man is
disseised, and he hath recovered by Assise,
and is put in possession by the Shirife, and
after that, is disseised by the same disseisour,
he shall haue this w̄rit of Redisseisin agaynst
him, & that is ḡauen by the statut of Merton
cap. 3. Which begynneth, Si quis diss. &c. And
by the statut of Marleb. cap. 8. Which begyn-
neth. Illa autem qui prosterata disseisin &c. Where
it is said such persons are not repleuisable.

If a man recover in assise against a woman
sole, and after she put hym out, and take a
husband, the w̄rit of Redisseisin shall not
suppose that hee hath reconered against the
husband and the wife, but the w̄rit of Re-
disselin shall suppose the Redisseisin to bee
made by the wife when she was sole, and the
husband shalbe named because of the mary-
age. A n 9. B. 4.

Note ye, that vpon a recovery in Assise of
fresh force, a man shall not haue a w̄rit of
Redisseisin. M. 14. E. 2.

But it is thought that a man shal haue a
Redisseisin & post disseisin in London, where
he recovereth by a w̄rit of Right, & maketh
his protestation in nature of Assise, for there
are Coroners. M. 14. E. 3

Note ye, that if I recover an acre of lande
in D. by assise, to whch there is a cōmon in

D. iij.

S.

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S. belonging, if **J.** be disseised of the common, **J.** shal haue a Redisseisin. **M. 8. E. 3.**

¶ A writ de Post disseisin.

REx Vic' saluteui. Monstrauit nobis A. quod cum
lipse in curia nostra coram dilectis & fidelibus
nostris T. & socijs suis Iusticia nostris de banco a-
pud VV. recuperasset seisinam suam versus S. de x.
acris terre cum pertineñ in I. per considerationem
eiusdem curi, idem B. præfatu A. de præd' tra post-
modum iniuste disseis. Et ideo ut supra, sed non di-
catur tam de illis qui in prima iurata fuerunt, quam
de alijs vsq; interim, postmodum iniuste &c. ut
supra, semper dicatur postdisseisina in loco disseisinae, ut supra. Teste &c.

This writ lyeth as is ordayned by the sta-
tut of Merton, vpon a recouerie in Assise
of Nouel disseisin, and by the statut of West-
minster 2. cap. 26. which begynneth. In bre-
uibus de Redd' &c. that a man that hath re-
couered by assise of Mortdauncester, or by
other Iurie, or by default, or by reddicion,
or by any maner enquest. And if he bee put
out of the same tenements by the same per-
son against whom he hath recovered, then
he shal haue a post disseisin and not a Red-
disseisin. Also if these tenaunts by Elegit,
statute Marchant, statute of the Staple be
disseised, they shal haue a writ of Reddis-
seisin: But in case that a man may disseise,
and after I recover by Assise, and am put in
possession, and the same disseisour with ano-
ther straunger put me out of the same lande,
in this case I shal not haue a writ of Red-
disseisin,

disseisin, for there is a tenant of parcel, that was not party to the assise, therefore I must haue a new Assise. And in case that the disseisour be disseised, and a writ was brought against the ij. disseisor, he shal answer of þ damages, for his owne possession: But the Statute of Gloucest cap. i. speaketh not but in case where the disseisour hath sold.

And note ye, when a man arraigneth assise of Nouel disseisin of a rent charge, it is conuenient that all the tenants of the tenuements charged be named in the assise, and all the land charged put in view, notwithstanding that hee was disseised but by one tenant, but otherwise is of rent service.

And note ye, that all assises of Nouel disseisin, & Mortdauncestour, that goeth into the Countie, are returnable in the common bank, and if the kinges Bench be in another countie then the common bank is, then all the assises of Nouel disseisin shalbe afore the Justices of the bank, and afore the king shalbe put a certayne day, as vsque ad diem Iunij in xv. &c. but in the Mortdauncestour common day may a man haue, as in other places, but in Assise of Nouel disseisin afore the Justices, and afore the kyng, a man may put a day out of the Terme, as vsque in diem Iouis post festum Sanctæ Luciæ, and greeue daye of fower dayes afore the kinge, and that wyll the Statute Articuli super chartas capitulo 15. And in Assise of Nouel disseisin a man ought not bouche no man if he bee not named in the writ, or bee

D. iiii. pre-

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present in Court when he is vouched, but in a Writte of Mortdauncester a man may vouch at large.

If a man recover lande by Scire facias by default, if hee be disseised by the same man afterward, he shall haue a post disseisin, aswell as if it were in a Preceipe quod reddat. C. 15. B. 7.

If a man recover lande in value, and after is put out by the bouches, the tenant shall haue a Post disseisin, ut patet per Registrum. A. 5. B. 2.

¶ A writ de Nocumtento.

REx Vic' salutem. Questus est nobis A. quod B. iniusté et sine iuditio pstrauit vel leuauit quod-dam fossatum in N. ad nocumentum teneanti sui in eadem villa, ut non posset transfr' &c. Et ideo tibi prae', quod si præd' A. fecerit te securum &c. fac xij. liberos & legales homines de vicinitate illo vide' fossatum illud vel stagnum illud & tenet, et nomina eorum imbreuiari. Et sum illos per bonos &c. qd' sint coram Iusticiæ nostris ad primam assilam cum in partes illas venerint parat facer recognit, et pon per vadum et saluos plegios predictum B. vel Balliu' suum, si ipse inuentus non fuerit, qd' tunc sit ibi aud' illam recognit. Et habeas ibi sum nomina pleg. Et hoc breue. Teste &c.

This writ lyeth where a man leuyeth or maketh a house, and wall, or gutter in his lande, or any such like to the nusance of the freeholde of his neighbor, then hee to whom the nusance hath bene made, shal haue the said writ. And also if hee that hath made the

the nusance sell the land , whereof the nusance was made to a straunger , then thassise shalbe brought against both .s. against hym that made the nusance , and against hym to whom the lande is selde , and that is gaeuen by the Statute of Westm 2 .cap. 24 .which beginneth . In quibus casibus &c. before whych Statute assise of Nusance did not lye, but onely against hym that made the nusance. And the proces is as in Assise of Nouel disseisin.

And note ye, that if the nusance be made in one Countie, and the tenement is in another Countie , then the writ shalbee brought in that countie where the nusance was made. And also if the Assise of Nouel disseisin bee arraigned in one Countie , and of the same tenementes another assise is arraigned in another Countie , a man can pleade nothing but suffer both assises to passe , and if they say bothe that these tenementes are in one Countie, then it is wel, and if they varie so that the one say, that the tenements are in one countie, and the other say that they are in another countie, then he ought to cause all the Assises to come afore the kinge, and that was iudged Anno 9. E. 3. betwixt Richard Clyfforde and Henry Fitz Hugh.

And note ye, that in many cases assises of Nusance lyeth , as it appeareth by these two Verses.

Fons, stagna, sepsq; via, diuersus cursus aquarum,
poscunt assisam, mercatum, feria, bancum.

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A writ de paruo Nocumento.

REX VIC' salutem. Questus est nobis A. quod B. iniusté et sine iuditio leuauit quandam fabricam in N. ad nocumentum liberi tenementi sui in eadem villa, post primam transfr' &c. Et ideo tibi præc', quod loquela suam audias, & postea cum inde iusté deduc' facias. Ne amplius &c. pro defectu iustitiae. Teste &c.

This writ lyeth where a Mill or such like is leuyed to the nusance of his neyghbor, he to whom the nusance is made shall haue the said writ, and it is bycontiel, and pledable in the Countie. And this writ may bee remouable out of the countie into the common bank at the suit of the plaintiff wþout cause in the writ, and at the suit of the tenant with cause, as in the pone de aueris repleg'. And hereof may be made a writ of Execution of judgement if neede be, but if hee that made the nusance dye afore the Allise purchased, then he to whom the nusance was made, or his heire shall haue a writ of Quod permittat against the heire of him that made the nusance. And so a Quod permittat lyeth al times in place of a writ of Entre grounded vpon disseisin, or abatement, after the death of him that made the nusance.

And note ye, that there be other writs that are called little writs of disseisin that are bycontiel, and pledable in the Countie afore the Shirife, that are De domo iniusté leuata vel prostrata & consimilibus, vt patet per Registrum, & what maner of nusance are pledable in the countie it appeareth by these verses.

Fab,

Fab,fur,porta,domus,vir,gur,mole,murus,ouile,
Et pons,tradantur hęc vicecomitibus.

Two coparceners are seised of a meadow
and a Myll, and they haue a way from the
myll vnto the water of the same myll, ouer
the meadow, & they make particion, so that
the mill is allotted to the one coparcener, &
the meadow to the other, & vpon the parti-
tion it is agreed, that he that hath the myll
shal haue the way to the myll ouer the mea-
dow, if the other to whom the meadow is
allotted leuye a ditch in the meadow where-
by he is put out of his way, he shal haue as-
sise, for he may not haue the profit of the mill
wout the way, wherfore thacord is good
without writing, as rent reserved vpon a
particion without writing &c. H. 21. E. 3.

Note ye, that if a man ought to repaire a
bridge, ouer which I haue a way belonging
to my manor of Dale, and he that ought to
repaire þ bridge make no reparacion where-
by I cannot haue my way, I shal haue an
action vpon my case, and not assise, for where
a man ought to make a thing and makes it
not, I of his laches shall not haue assise, but
where a man maketh a thing by manor, or
leuying or estopping, in such case I shal
haue Assise &c. if a man bee holden to scour
a ditch, that the water may haue course, and
he make it not, whereby my meadow is sur-
rounded, I shall haue a writ of Trespas,
but if he stop that, that is vncensed, I shal
haue Assise. C. 11. H. 4.

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¶ A writ de Attincta is such.

REx Vicee salutem. Si A fecerit &c. tunc sum &c. xxiiij. legales homines de vicini de N. quod sint coram Iusticiarijs nostris apud w. tali die, vel ad primam assisam &c. parati sacro recognoscere si iur per quos quædam inquisic' nuper capta fuit coram Iustic' nostris apud VV. per breue nostrum &c. qd fuit inter A. perentem & B. tenent, falsuna fecerunt sacramentum sicut idem A. grauiter nobis conque- rens monstrauit. Et interim diligenter inquiras qui fuer iuratores, per quos inquisitio capta fuit. Et eos habeas coram praefat Iusticia ad præfatum terminum, vel ad præfatum assisam. Et sum per bonos summonit praefat B. quod tunc sit ibi auditu illam recogn. Et habeas ibi sum nomina prædictorum hominum, & hoc breue. Teste &c.

This writ lyeth where an Enquest hath made a false verdict whereof they bee attainted by thys writ they shall haue such paine. s. their meadowes shal bee cyred, and their houses pulled downe, and their woodes distroyed, and all their landes and goods forfayted to the king, but if the writ passe against him that bringeth the writ he shal bee imp̄isoned and greuously raunsoned at the kinges pleasure. And the proces is against the partie Hunmons and resummons. And against the partie Jurors, Venire facias, and a distres. And against the graunde Jurors, Hunmons, Habeas corpora, and distres. And in how many maners a man may haue Attaint, Ioke the statute of Westm i. cap. 37. Which beginneth. Pur ceo que ascun gents &c. that a man shal haue Attaint in ples of land,

or of a thing that toucheth freeholde. And now by the new statut of An 1. E. 3. cap. 6. is ordyned, that Attaint shalbe graunted in a writ of Trespas, as wel vpon the damages if they passe xl. s. as vpon the principal. And also the statut made An 1. E. 3. cap. 7. that Attaint is aswell in ples personal as in ples reall, and to be graunted to poore men without fine, and the Chaunceloz hath powre to graunt this writ without sueing to y^e king. And that the Justices let not in no case of attaint delay to take the attaint for the damages not payed. And by the statut made at Westm, An 1. E. 3. cap. 7. in the ende, a man shall haue a writ of Attaint in ples of Trespas moued afore Justices that are of Record without writ, if the damages iudged passe xl. s. And after by the statute made in the time of the same king, An 28. cap. 8. a writ of Attaint shalbe graunted aswell vpon a bill of Trespas, as vpon a writ of Trespas, having no regarde to the quantitie of the damages. And also the attaint shalbe graunted to poore men that will sware that they haue nothing wherof they may make fine, Saving their countenance, without fine, as to other by a reasonable fine. And by the statute of An 24. E. 3. cap. 7. And also by the statut of An 9. R. 2. cap 3. is geuen, that he in the reuersion lyuing his tenant for terme of lyfe, shall haue Attaint.

Not^e ye, y^e a writ of Entre was brought in Sussex, and the tenant pleaded the dæde of the auncestour of the plaintife made in

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London, which was denyed, and found of the plaintife in London, and vpon that the tenant brought Attaint in London to summon xijij. and to attach these xij. and another writ to the Shirife of Hulx to attach the partie, where the land was, and the writ that was directed to the Shirifes of London was challenged for that, that it is not comprised in the writ that the partie shalbe attached & not allowable, for in a new case a new remedie shalbe prouided. M. 18. E. 2.

Attaint was brought agaynst J. S. as sonne and heire, vpon a false verdict geuen betwixt the plaintife and the father of the said J. S. in a Precipe quod reddat, & the writ was challenged, for that, that it is not proued by the writ that he is tenant, & for that, that euery attaint in him selfe is summons, the writ ought to hane bene, sum one such, and not allowed, for the writ shalbe brought against the father without any summons against him, for that, that the law intendeth that the tenancy continueth in him, and this action is formed vpon the first record, and by the same reason it shalbe intended, that it descended to the heire, and that he is tenant, wherfore aunswere. M. 31. H. 6.

One that was bouched brought Attaint against those that passed vpon a deede denied, and the writ will, that one J. S. tenaunt bouched to warrant, and the writ was abated, for that, that the writ supposeth not that the bouch. hath a warrant of the tenant by expresse wordes, yet it is supposed by these wordes,

wordes, placitando protulit that he hath a war-
rant, but that, that it shoulde be put in the
writ by expresse wordes may not be mainte-
ned by supposeil. P. 22. E. 3.

Note ye, that one may haue Attaint, a writ
of Error, and Discceipt afore execution, for
the mischiefe that he will not sue execution
vntil such time that the petit Jurie or sum-
moners and beyors be dead, and then to sue
execution when he may not haue the actions,
and of this mischiefe he shal haue them afore
execution. M. 21. E. 3.

If a writ be awarded to the Shirife by de-
fault to enquire of wast, it is saide that the
parties shal haue their challenge afore the
Shirife, & also Attaint, if the Jurie make a
false verdict, qd' non credo, Quare. Añ 10. H. 4.

Note ye, that no man shal haue Attaint in
appeale of Mayhem, nor in any other apeale
of felony, or of the death of a man.

Note ye, that if a man be indicted of tres-
pas, and found gyltie by another enquest, shal
not haue Attaint, for that, that xxiiij.
hath founde hym gyltie, and both the ver-
dictes agree.

In trespass against two, the one appeareth
and is founde giltie by one enquest, & the o-
ther by another enquest, he that was found
giltie by the later enquest shal haue Attaint,
notwithstanding that he is a straunger to
that, for that, that he is in dammage by that,
for the first enquest shall take the damages
and not the second enquest, & of those dam-
ages he shal haue Attaint. P. 44. E. 2.

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Attaint was brought, and he assigned the false verdict to be in ij. thinges, where as it appeareth to the Court that he hath no cause of action, for the one, and by the advise of the Justices it was holden, that the party shalbe baried of that, and the remnant to stand in his force. C. 26. H. 6.

The iudgement in Attaint is, when it is founde for the plaintife, that the verdict is false, the iudgement reherseth the points &c. Wee awarde that the plaintife shall haue againe his lande and those damages that hee lost in the Assise, and the profits had in the meane time, and that the tenant shalbe taken and the petit Jury shal loose free law, & their goodes forfaited, and their tenementes dysstroyed, and all their landes and tenements seyfed, and their meadowes eyred, and their woodes destroyed, their wyues & infants of their houses put out, and that they shalbe taken. H. 11. H. 4.

¶ A writ de Certificatione nouæ disseisinæ.

REX VIC' salutem. Quia super quibusdam articulis nouæ disseisinæ contingent, quæ inter A. & I. sum fuit & cap' apud I. per breue nostrum, coram dilectis et fidelibus nostris H. & R. de tenemento in I. quedam subsunt dubitationes sicut ex querela iphius I. accepimus, constituimus præfatos H. & R. Iusticiaf nostros vna cum hijs, quos sibi associoimus ad certificationem super articulis prædictis capiend'. Et ideo tibi prec' qd' ad certos diē & locum quos eidē H. et R. tibi scire fac iuratores illius assisse coram eis Venire fac' ad certificād' sup articul' pdicī.

Et

Et sum per bonos sum prædict A. quod tunc sit ibi auditurus illam certific'. Et habeas ibi sum nomina iurat & hoc breue &c.

This writ lyeth where assise is brought against a man and he aunswered by balye, and the balye commeth into the Court excusing the absence of his maister, and pleade in abatement of the writ or saith, no wrong, ne disseisin, for he may not plede any release, or writing in barre of action, then if the tenat loose in his absence by assise, if he hath any release or other writing that wil make for him he may come afore the same Justices, afore whom the assise was taken and shewe his right by release, or other writing, and if the Justices may see that the plaintiff in the assise might haue bene excluded of assise, if the said release or writing had ben shewed afore the iudgement in the Assise geuen, then the same Justices shal send a scire facias to the shire of the County where the assise was arraigned, that he warne the party that first recouered to bee afore them at a certaine day. And also that he shall cause the first Jurors to come that were first sworne in assise, and then if it may be founde by verdict of the Jurors or by inrolment, that the said writings are true, that he that purchaseth the said assise shal yelde double damages, as it appeareth by the statute of Westm 2. cap. 25. which beginneth: Quia non est aliud breue &c. And in case that the Justices or any of them afore whom the said Assise was first taken dye or be remoued, then the party if he haue any release

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lease, as afore is sayd may haue the said certi-
fication, which shalbe patent directed to the
newe Justices rehersing al doubts touching
the assise that was taken afore the first Jus-
tices commaunding them that they take the
sayd certification at a certaine day & place, &
ouer that a Precepe directed to the Shirife of
the same county, that hee sommon the same
party that first recovered. And also that hee
cause the first Iurors of the assise to come a-
fore the said newe Justices at a certaine day
& place, to certify the said Justices of the said
doubts as it appeareth by the Register. And
also this certification may be taken in the
kings benche, or in the common place, & then
no patent shalbe made as is in assise of Ro-
uel dist. by which certification, as wel in the
one case as in the other, the iudgement shalbe
reuerled, & in case that the party be warned,
and come not at the day assigned, hee shall
lose the land by default. And if he come at y
scire facias, the plee shal passe betwixt them, and
if he that recovered by assise can nothing say
against the release, then the tenant that lost
by the assise shal recover. And the proces is
against the Iurors a venire facias, Habeas cor-
pora, and distresse infinite, but this wryt ly-
eth, but where it may be founde by recorde,
& by the rolles, then thinquest that paileth in
assise speake nothing, nor made mention of y
release or other wryting in their verdict, but
if thenquest make mention of the release or
of their wryting, & they geue false verdicte
notwithstanding the release, then the party
against

against whom they passed may haue attaint against the Iurours. And if the Justices geue false iudgement where these Iurours made mention of the release, and puttech their verdict vpon the iudgement of the Justices, and that may bee founde, then the sayde partye may haue a wryt of Error and the iudgement shalbe reuersed. And if it be found that the release is good, the party shall recover, and if not, the other shall holde in peace, & that is geuen by the Statute of West. 3. cap. 25. which beginneth: Quia non est aliquod breue &c. And in case that the assise passe in absence of the party, and after the party commeth, & shewe to the Justices any release as is aforesaid, and the Justices delay to do after the said Statute, then the party may haue a wryt directed to the same Justices in whiche wryt the said Statute shalbe rehersed, commanding them vpon the sight of the said wryt that they make full Justice to theforesayde partye, as it appeareth by the Register. And this wryt in this case shalbe in place of a certification. And note ye that by v same Statute if the party defendant in assise of Novel disseisin alledge in delay of the party plaintife, that assise another tyme passed betwixt the same parties of the same lands, or v the sayd party plaintif was nonsuit in a wryt of higher nature hanging betwixt the of the same tenement or that the said plaintife was nonsuit in such like wryt, & profereth to verify v of record, in this case if the same party saile at his day of the record, he shalbe iudged as

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desleisour, without triall of the Assise, and
the Assise taken in the ryght of the damma-
ges &c.

If a recoverie be in assise, and after the te-
nant in the Assise sue a certification vpon a
deede, and a Scire facias against the party that
recovered to bee at a certaine day &c. and a ve-
nire facias in the same wchit against the xij.
Iuroz that were sworne in the Assise, and
the shirife returned that two of the Iuroz
are dead, quare if he shall hane a certification
or not, for that, v the statute is, that it shalbe
tried by the first Iuroz, but not by all the
Iuroz, and it was saide that there was a
certification at the common lawe afore the
iudgement geuen: if the matter bee vpon a
deede bearing date in a foerine countrey, it shall
be tried by other, and not by the first iuroz.
An. 12. H. 4.

¶ A writ de Assisa mortis antecessoris.

REx vic' salutē. Si A. fecerit te &c. tunc sum̄ &c.
xij. liberos & legales homines de vicin̄ de A.
quod sit coram &c. tali die &c. parati sacramento
recognoscere, si B. seū pater prædict̄ A. fuit seisitus in
dominico suo, vt de feodo de vno mes. cum pertineñ
in N. die quo obiit. Et si obiit post coronationem
domini H fil̄ regis &c. Et si idem A. propinquior he-
res eius sit. Et interim prædictum mesuag. videant
& nomina eorum inbreuiar facias, & sum̄ per
bonos sum̄ prædictū B. qui mes. prædicē tenet quod
tunc sit ibi aud̄ illam recogn̄, & habeas ibi sum̄, &
hoc breue. Teste &c.

This

This writ lyeth where my father, mother, brother, sister, vncle, or aunt died seyled of landes or tenementes, or of rent, that they haue in fee simple, and a straunger abate, then I that am next heire shall haue this writ against the abator, or against whosoeuer that is in possession, after the death of mine ancestor. And the proces is in this writ as it is in a Iuris vtrum. And note ye that if an Infant bee in warde of his lord, and after he cometh at his ful age, the lord wil not yelde to him his lād wout plee, then y Infant shall haue this writ & that is geuen by the statut of Mark cap. 16. which beginneth: Si heres aliquis &c. but if he be of ful age after the death of his ancestor, & is in his heritage, and known for heire, & the lord enter vpo the heire, and hold him out, then he shall haue the foresaid writ, & recouer damages, as in Ause of Nouel disseisin. And note ye: that by the statute of Glō cap. 6. It is ordained, that if a man dye seyled of certain lands or tenements in fee simple, and hath many heires, whereof one is sonne, daughter, brother, sister, neefew or neece, and the other bee in no more longe degree, if a straunger abate, all those heires together shal haue the foresaid writ but if y heire be not one of them aboue named, they are put to their writ of Wyle, or Colnage as their case lyeth. And note ye: that if an infant purchase a writ of Mortdauncellor, he ought to find no surety, & for that he shal not say in this writ si talis fecerit secur &c. And note ye: that the Statute of West. 1. cap. 22. which

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beginneth: Des heires males &c. that if any lord withhold these heres females vntill xvj. yere unmarped, because of coueteousnes of the land, then the heire may recouer her heritage by the foresaid wxit of Mortdauncestor. And note ye: that a man may haue a certification & association to the said wxit.

More ye: that a wxit of Mortdauncestor was of a common forme, In dominico suo ut de feodo die quo obiit: and the tenaunt said that his auncestor of whose death hee bringeth this wxit went ouer the Sea towaards saint James: the whiche auncestor is not yet come againe, therefore the wxit shal say: Die quo iter &c. Wherefore the wxit was abated, and the demaundant would haue auerred the death of his auncestor, & could not be received, for that, that another wxit is geuen in the case. W. 16. E. 3.

The wxit of Mortd was sum xv. &c. de visu vili de Dale &c. parati &c. si obiit seifitus de octo pedibus in longitudine, & vj. in latitudine, & duabus partibus vnius mesuag. et medietate pertinij vnius mesuag. in villa de Dale &c. interim mes. terras et tenementa videant. And the wxit was challenged: for that is was De octo pedibus &c. for it ought to be of a place that contayneth so much, so the principal demaunde shal bee of the place, and not of so many footes, & also the wxit ought to bee, that these twelue of the Assise ought to bee of the same bennew where the demaunde is made, and now is the one of the bennew of the Cowone of Dale, to somon the Iurores, and the seconde

is in the towne of Dale: & also in þ demaund, the lande is first in demaund, & after the me-
suage &c. & in the clause to make the beneþe the mesuage is first named, but the exception
was not allowed as the first challenge, for a man shall not haue a wȝit to demaunde a
place that is not certeine, & as to the seconde point the forme of the wȝit is such & may
not be intended divers townes, & as to the third point, that is whole in þ demaund shall
be first named, and then the halffes, but when the beneþe ought to be made and the whole
mesuage to be put in biew, þ forme is to put the mesuage afore þ land, & a wȝit of another
forme may he not haue, wherefore the wȝit
was awarded good. H. 16. E. 3.

In assise of Mordaucestour, if the te-
nant pleade a feoffement of the auncestour of
the demaundant in barre, he ought to tra-
uerse the dying seyed, but if he pleade a
recovery, or a fine leuyed by the auncestor,
hee ought not trauerse the dying seyed, for
that, that the demaundant is stopped to say
against the record that he died seyed with-
out shewing howe after the recoverye M.
7. E. 3.

In assise of Mord the tenant pleaded a
recovery in assise had against þ plaintif selfe,
and for that, þ this disþroues the estate that
the plaintif hath after the deaþ of his aunc-
estor, the opinion of the court was that it is
no barre. M. 27. E. 3.

A. was endicted of felony, & one D. as ac-
cessory, & vpon the Cate the shirife returned
P. 119. that

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that A. nō potest inueniri, and that the said D. was taken, and he pleaded not guilty, and he was found guilty, and hanged, & the lord by Escheat entred, & after the said A. was take & brought to the barre, and after was found not guilty, & the heire of the sayd D. brought assise of Mortdauncester against the lord by Escheat, & shewed al this matter, and after was awarded that the said heire should recover seisin of the land: for that: that if the said D. were on lyue, that he shoule be acquitted by the acquitall of the said A. and that he can be no accessory of felony wher there is none. M. 33. E. I.

¶ A writ de Auo is such.

REx vicecom salutem. Precip A. quod iuste &c. Reddat B. vnum mes. cum pertinen in N. et aduocationem ecclesiae eiusdem villæ, de quibus C. auus pred B. cuius heres ipse est fuit seisis in dominico suo, vt de feodo die quo obiit, vt dic. Et nisi fecerit et p̄d B. fec. te secūr &c. tunc sum &c. Et habeas &c. Teste &c.

THIS W̄IT LYETH WHERE MY GRAUNDFATHER DYED SEYLED OF LANDE, TENEMENT, OR RENT IN FEE SIMPLE, AND A STRAUNGER DOETH ABATE, THEN I SHALL HAUE AGAINST HIM THIS W̄IT, OR AGAINST HIS HEIRE, OR HIS ALIENEE, OR AGAINST WHOSOEVER THAT COMMETH TO THE SAID LANDS AND TENEMENTS IN WHAT MANNER SOEVER HE IS IN. AND IN THE SAME MANER LYETH A W̄IT OF COULNAGE, THAT IS TO SAY, WHERE MY GRAUNDFATHERS FATHER, OR MYE GREAT GRAUNDFATHERS FATHER, OR OTHER COULN, AND SO TO THE IX. DEGREE THAT DIED SEYLED IN FEE SIMPLE, & A STRAUNGER ENTER, I

shal

shal haue a w^rit of C^osinage, and not a w^rit of Aile: for that: y^e it passeth the w^rit of Aile. And note ye, that a w^rit of C^osinage lyethe in the discent lineal. And it is to know that the lineall discent is from the father to the sonne, but if the lande descend from the sonne to the b^runcles sonne vpon abatement, he shall haue a w^rit of C^osinage. And note ye: that assise of nouel disseisin, M^ortdaunc^ror, Aile, C^osinage and Nuper obijt, are onely w^rits of possession, and not myxt with the right, but assise of Nouel dissey^rin is of his owne possession. And the other are of the possession of the aunc^ror to whom he is next heire. And note ye, that a mā shal recouer no damages in the said w^rits but in those that damages are geuen by statute, or by y^e comon law, & of damages looke in the statute of Glo^re cap. 1. And y^e proces in this w^rit is, Som^rs, Grād Cape, & petit cape &c.

A general w^rit of Aile was brought, & it was challenged, for that, that his aunc^ror died not in England, but tooke his iourney toward the holy land, & came not again, in which case he shal haue a like w^rit, as hee should haue in assise of M^ortdaunc^ror, but y^e exception was not allowed, for it hath not ben seene in a w^rit of Aile. M. 13. E. 2.

The w^rit of Aile was precepe &c. quod redat vnam bouatam terre et vnam bouatam Marisci, and the w^rit was abated, for that, that the organge is alwaies of a thing that lieth in gainor. M. 13. E. 3.

In a w^rit of Aile, a release was pleaded of

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of the same graūdfather with a warranty, & the opinion of the court was, that þ was no barre, except he say without that, that he died seised, & so it was pleaded. ¶ 13. ¶ 4.

¶ A writ de Nuper obijt.

REx vic' salut. Si A. fecerit &c. tunc sum &c. B. quod sit coram Iustic' nr̄is &c. tali die ostens. quare defor' prefat A. rationabilem partem suam, que ei cōtingit de heredit̄, quod fuit I. de N. pris sui, fratr̄is, soror̄is, aui, auiae, auunculi, amitae, consanguinei præd' A. & B. cuius heredes ipsi sunt. Et qui nuper obijt, vt dic'. Et habeas &c. Teste &c.

This w̄rit lyeth wherē a man hath many heires that shal equally enherite, as many daughters or sonnes (if it be in Kent) and di- ed seised of certayne lands or tenements holden in fee simple, if any of these coheires enter into the lande and holde these other out, then these that are holden out shall haue the sayd w̄rit against the coheire that is in. And the proces is, as in a w̄rit of Ayle. And note ye, that a w̄rit of Nuper obijt, & a w̄rit of right de rationabili parte, lyeth alwayes betweene priuies of bloud, but a w̄rit of Mortdauncer, Colnage, and a w̄rit of Ayle, lieth alwayes against a straunger.

Note ye, if any be deforced of their reasonable parte, it behoueth to be brought by all those, that are deforced, & not by one of the, for albeit, þ these other will not sue for their reasonable part, she shal bring this w̄rit and all

all their names that are deforced, and this
writte shalbe retournable, and if they will
not sue, hee that will, shall haue a writ called
summonias ad sequendum simul, & if they come
not at this writ, the other that will sue shal
be receiued to sue, and to pleade against his
person that is deforson in right of his part,
& shal haue iudgement and execution for her
portion. Note ye, þis writ shalbe brought
by coheire against coheire, & not otherwyse:
for if any other auncestour enter, and clayme
by the same discent that I claime by, I shall
not recouer against him by the sayde writte
nor other writte, but enter vpon him. And
if he put me out, I shall haue assise of Nouel
disseisin, or a writt of Ryght, for assise of
Mortdauncestour I may not haue against
my cosin that claimeth by the same discent þ
I claime by, for a writt of Mortdauncestor
lyeth never betwixt priuies of bloud. And þ
writ of Ryght that is brought against the
cosin that claymeth vt supra, shall not bee de-
termined as other writs of Right, that is to
say, by battaille or by graund assise, but by en-
quest that is in the place of the graund assise:
for that, that the right is not to be tryed, but
only the priuity of bloud, þ is to say, whiche
of them are more neare of bloud to the aun-
cestour that was last seised afore that they
are passed the third degree where they ought
to claime by one discent, but battail lyeth not
betwixt sisters, where one is feoffed by char-
tour, & þ other by discent, as it appeareth in

Magna

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Magna Carta de assisa eligenda. Note ye, if any straunger abate after the death of any common auncestor, al these coheires together shal haue their recouery against the straunger as one sole heire shall haue by a w^rit of Mortdauncestor.

In a Nuper obijt after that, that the tenant hath defended the w^rordes of the court, & the right of the demandant, as a fr^a man, he alledged that he was villein, wherby the w^rit abated. And note ye, when a w^rit is abated by exception of villenage, the w^rit lieth not against the lord of the villein, if the villein be not named, where the lord is not seyed by entre, for the lord shal not be tenant against his will. M. I 5. B. 3.

¶ A writ of Decies tantum.

REx vic' salutem. Si A fec' te secūr &c. tunc poñ &c. C. D. et E. &c. quod fint &c. tali die, ad rñd tam nobis, quam prefat A. quare cum in parliamēto domini E. nuper Regis Angl progenitoris nostri apud westm Anno regni sui xxxvij. tent, inter cætera concordat existat, quod si aliquis iurator in ass. iuratis vel alijs inquisitionibus capiend inter nos et ptem, vel partem et partem, quicquam capiat per ip- sos vel per alios a parte conquerente vel defendente pro veredicto suo dicendo, et super hoc per processum in quodam articulo de Iuratoribus Anno regni sui xxxvij. fact ordinat, conuincat, siue fit ad sectam partis, quæ pro seipso aut pro nobis, aut alterius cuiuscunque personæ prosequi voluerit, soluat quilibet iuratorum prædictorum decies tantum, quantum ipse receperit, et habeat ille, qui facit sectam suam, me- dictatem,

dictatem et nos aliam. Et quod omnes imbraciatores dicendi vel procurandi tales inquisic' in patria p lucro vel pro proficuo capiend' punianē eod' modo in forma sicut iurat'. Et si iurator vel imbraciator ita conuictus non habet, vnd' in forma supradicta satisfaciat, habeat prison vnius anni, prout in ordinat' p̄d' plenius continetur, predict' C.D. et E. in quādam assisa no. diss. quam idem A. nuper arrān̄ cor̄ dilectis et fidelib' nostris R, S. &c. iustic' nostris ad ass. in com̄ S. capiend' assigñ per breue nostrū versus H. et alios in dicto breui content', de teñ in T. pos̄it pro veredicto suo in hac parte dicendo, ac p̄dicē C.D. et E. imbraciatores eiusdem ass. ad cum dicēt et procurand' de p̄fato A. diuersas pecuniarum summas, et alia dona apud R. ceper̄ in nostri contemp̄, et ad ipsius A. graue dampnum. Et cont' formā ordinationis p̄d'. Ethabeas ibi nomina pleg. & hoc breue, Teste &c.

This w̄xit lyeth where Jurors hath ta-
ken golde or siluer of the one partye or of
þ other to say their verdit, then by this w̄xit
they shal pay ten times as much as they dyd
receiue, and the party that sueth shall haue
the halfe, & þ king the other halfe. And those
Embraceours that procureth such enquest,
and taketh money, they shal be punished in þ
same maner: or if these Jurors or Embrace-
ours hath not, wherof they may make gree,
they shall haue imprisonment of a yere, but
no Justice by his office shall enquire vpon
the sayd pointes, but onely at the suyt of
the partye, and this recouerye is geuen by
the statute de Anno 34. E. 3. cap. 8. And the
proces is, Attachment and distresse.

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In this action popular, þ defendat pleded a recoverie in another action popular, þ was brought against him by a strāger, and acquittance made to him by a straunger, the plaintiff may auerre the acquittance to be made by collusion. M. 35. I. 6.

In a Decies tantum, iudgement of the w̄rit was demaunded: for that, þ the w̄rit was, in loquela quę fuit inter I. P. demaundant & I. C. deforc' per breue nostrum de iuditio de vno mesuagio wher he ought to shewe by what w̄ritt of iudgement: for that, þ there is diuers w̄rits of iudgement, as a scire fac' to execute a fine, or a judgment. For if the defendant wil say, þ there is no such recoverye, this issue is not certain, for þ recoverye is not alledged certain notwithstanding the w̄rit was awarded good, for that, that he hath put the certainty of the land in the w̄rit. And in such a w̄rit it is sufficient to say, In quadam loquela transgressionis vel debiti, without more, & yet the trespass is not certaine.

Note ye, that in a Decies tantum and other actions grounded vpon the statute þ genereth to þ party þ wil sue the one halfe, & the king þ other, if þ party begin his suit, that þ was popularis made is his proper suit, & the king nor none other person may not release nor dispence, as to his interest, & the acquitall or cōdemnatiō of the party is a barre & a discharge against al other people, but before the action begone, þ king may release or pardon, & þ shalbe a barre against al people, & þ was graunted by al the court M. 2. I. 7.

In

In a Decies tantū against the Embraçors, the plaintife ought to shewe how they embraced, & where the embracement was made, & how he tooke money, & how he said to the Jury, & Danby sayd, though that they take money, & make no Embraçery, the action lyeth not against them: but otherwise is of a Jury, if they take money to say their verdict, if the party be nonsuit y action lieth very wel against the, for that, y when they are sworne they are Judges. C. 37. B. 6.

And note ye: if the Iurors geue a true verdict notwithstanding that if they take money to say their verdict, they shalbe punyshed by this writ. M. 21. B. 6.

A writ of Decies tantum was brought against certaine persons for taking of money in assise brought by the plaintif in this writ and his wyfe, and exception was taken for that, that the wife was named with her husband in this writ, and the exception was not allowed, for this writ is not given by reason of the tenancy, as attaint or Champerty is, but it is to punishe the Jurye for the taking of the money. C. 40. E. 3.

In a Decies tantum, the verdict was founde against the Iurors in this action, y iuours were awarded to prison, & it was awarded that y king & the party shall recover x. times to the value sc. as the statute will sc. And that the king shal haue the one halfe and the party the other halfe, & the iurors shall profer that, y belongeth to the party in y court, and it was said that the king is principall, for

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for it is geuen by the statute that he that wil
sue for the king, the king hath geuen hym ad-
uantage to haue the one halfe of that , that
shalbe recovered, & it was aundered that the
king taketh not his suite as of debt due, but
by way of a fine, and there where the King
ought to take a fine, his party shalbe alwayes
first serued wherefoze they payed the halfe
to the plaintife, & founde suerty to the king
etc. And then they were deliuered out of the
prison. C. 14. E. 2.

¶ A writ de quare ciecit infra terminum.

R Ex vic' salutem. Si A. fecerit &c. tūc sum B. quod
sit &c. talis die ostens. quare defor' prefat A. de x.
acris terr' cum pertiñ in N. quod C. ei demisit ad ter-
minum qui nondum preterijt, infra quem terminum
idem C. prefato B. terram illam vendidit; occasione
cuius venditionis idem B. prefat A. de terra præd e-
iecit, ut dic'. Ethabecas ibi sum &c. Teste &c.

This writ lyeth where a man letteth lands
or tenementes to another for terme of yeres,
within which terme the lessor enfeoffe ano-
ther in fee, and the feoffee put out the tenant
of his terme, then the tenant shall haue this
writte against the feoffee, and the proces is
Homons, Attachment, and distres, and the
proces of outlawry, but the tenant in thyg
case may haue a writ of couenant against
his lessour if he be sufficient, and haue wry-
ting. And also because that this terme is co-
pared to mouable goodes and chattels, this
writ was founde by a discrete man called

William

William Matton, so that by this writ the tenant may recover his terme against the feoffee.

Note ye, that in this writ the lessee shall not recover his terme & damages against the feoffee of his lessor. H. 19. H. 6.

In this writ against A. the plaintiff declared that R. him deforced of an acre of land which one A. let to him for terme of yeares, within which terme, such a day &c. A. solde the land to this R. Wherefore R. him put out: the defendant said, that he hath nothing of the sale of A. And he was put from that place: for if it be found that A. had sold it, yet the putting out is not found: Wherefore he said that A. hath nothing in demesne, reversion or in seruice at the time that he solde the land to vs &c. and that was not allowed, for he ought to answer to the putting out: Wherefore he said that he did not put him out by the reason of the sale of A. &c.

And note in the same place, if he in the reversion release to the disseisor: this writ of Quare eiecit infra terminum, lyeth against the disseisor, H. 3. E. 1. P. 18. E. 2.

And note ye, that a man shal not haue this writ, except that he haue possession in dæd.

A writ de Eiectione firmæ

Ex vic' salutem. Si A. fec' &c. tunc pone &c. B. qd sit &c. tali die ostens. quare vi et armis in manerium de I. q. C. prafat' A. cimisit ad terminum x. annorum, qui nondum præteriit, intravit, et bona et catalla eiusd' A. ad valentiam x. li. in eodem manerio

Q. j.

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nerio inuenta cepit et asport. Et ipsum A. a firma sua p̄d eiecit, et alia enormia ei intulit ad graue dānum ipsius A. et contra pacem n̄ram. Et habeas ibi nomina pleg. Et hoc breue. Teste &c.

This w̄ritte lyeth in case where landes or tenements are lett to a man for terme of yeares, within which terme a stranger of his owne w̄rong putteth out the said tenat, then the sayd fermor shall haue the said w̄rit against the stranger. And the Proces is as in a w̄rit of Trespas: for in this w̄rit shall be supposed that the tenant was putt out with force and armes.

Note ye, that this w̄rit of Ejectione firmæ, is but in the nature of an action of Trespas, & the plaintife shall not recouer his terme that is to come, but damages: but he shall recouer his terme by a w̄ritte of Covenant against his lessor. H. 6. B. 1

Note yee, that executors brought a w̄ritte of Ejectione firmæ, and declared that their testator was put out, and the w̄rit was maintained. Quod quare. T. 7. H. 4.

A writ de Ingressu ad terminum qui præterijt.

REx vicecom salutē. Præcipe A. qđ iustē &c. redā B. vnum mes. cum ptiñ in N. q̄ idem A. dimisit ad terminū qui præterijt, yt dic'. Et nisi p̄d B. fecerit te secūr &c. tunc sum &c. præfat A. quod sit coram &c. tali die, ostens. quare non fecerit. Et habeas ibi sum, et hoc breue. Teste &c.

This w̄ritte lieth, where landes or tenementes are lett to a man for terme of yeares

yeares, & the tenant holdeth ouer his terme, then the lessor shall not haue this writ, but in place of this writ he may haue assise of nouel disseisin, if it be in the first degræ, that is to say, if the lessor enter after the terme ended, and the lessee enter againe, & put him out then lyeth the Assise.

And also it lyeth in case where landes or tenements are lett for terme of a strangers life, and the stranger dyeth, and the lessee holdeth ouer his terme: then the lessor shal haue the said writ, or hee may enter (as afore is said.)

And in case that the tenant for terme of life sell the land & dieth, then he in the reuersion shall haue the said writ. And in case, þ the tenant for terme of life be impleaded, and the land be recovered against him, and dieth, then he in the reuersion shall haue the sayd writ in the Post.

And note ye, if the reuersion of a tenant for terme of life, be graunted to a man: and the tenant for terme of life make feoffement, and dieth, it is said, that he to whom the reuersion is graunted, nor his heire may not haue the said writ: for that, that he is a purchasor of the reuersion, & not lessor nor heire to the lessor.

And note ye, that this writ lyeth not for him in the reuersion after the death of the tenant in dower or by the curtesie: for they are not tenants for life by lease, but by law.

But if tenant for yeares, or the Gardyne by knighthes seruice sell, then the lessor or
Q.ij. the

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the infant shall haue assise of Nouel disseisin, & not this writ, as it appeareth by the Statute of Westmin.ij.chap. 25. which beginneth, Quia non est aliud breue &c. And the proces is in this writ, and all other writts of Entre, graund Cape and petit Cape.

And note ye, that this writ of Entre may be made in the Per, Cui & Post, as a writt of Entre or disseisin.

And note ye, that in euerie writ of Entre in the Post, the writ shall say, & vnde queritur &c. and in no other writ within the degrees. And also in euerie writ of Entre where a man demandeth of the possession of his ancestor, he ought to demand by title, quod clamat esse ius &c. but of his owne possession he shall make no title, except it be where the woman demandeth her heritage or mariage that was sold by her husband, or her dower of her first husband sold by the second husband.

A man made a feoffement of his land by Charter, which was deliuered into an indiferent mans hand, vpon such condition, that if he pay xx.li. to the feoffor at such a day, he may enter into his land, & that the charter to him be redeliuered, if not ac. In this case if y feoffor pay the money at the day assigned and the feoffor hold the land after the day, & obteine the deede, the feoffor shall haue the said writ, and after the money to be payed. M.5. E.3.

The husband & the wife let landes to one for terme of yeares: the husband dyeth, and the

the lesse held ouer his terme and dyed , after whose death the sonne of the lesse entreth, and the wife bringeth the said w^rit supposing that he hath no entrie but by his father to whom she let for terme of yeres that is past: the tenant sayeth, that her husband and shee made lease tointly, and not she onely, &c. and that she might not denie wherfore the w^rit abated, and no other maner of w^rit she may haue. Anno 8. H. 7. Itin. Canc.

If an Abbot that is Parson imparson^e let land for terme of yeares , that is of the right of his church and dieth , and the lesse hold after his terme , his successor shall not haue the said w^rit, though that all be annexed to his abathy, & for that, that his successor in such a w^rit ought to claime his land in the right of his church that he holdeth as parson, in which case he hath no other reme- die by the statute, but a Iuris utrum, wherfore his w^rit abated. E. 20. E. 3.

A VVrit de Ingressu dum non fuit
compos mentis .

R^Ex vicecomiti salutem. Praecepit A. q^ui iuste et sine dilatione reddit B. vnum mes. cū ptiū in N. quod clamat esse ius et hereditatem suam, et qd idem A. non habet ingressum nisi per C. patrem praedicti B. cuius heres ipse est, qui illud ei dimisit , dum non fuit compos mentis suæ , ut dicit. Et nisi fecerit &c. Teste &c.

T^His w^rit lieth wher a man selleth land or tenement , when he is out of his mind, and dieth, then his heire after his death shall haue

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haue this w^rit. And note ye, that it is sayd that the auncstor^r selfe shall not haue this w^rit, for that, v^r he shall never be received to disable himselfe. Quare. And note ye, that this w^rit may be made in the Per, Cui, & Post, as other w^rits of Entre. And the Proces is Somors, graund Cape & petite Cape.

In this w^rit it was supposed, that the te=nant hath no entrie but by his auncstor^r v^r demised to the tenant. The tenant said that he entred by one M^r. & not by his auncstor^r, & that was holden no p^lae, for he ought to tra=uerse the demise and not the entre: wherfore he said that he entred by M^r. without v^r that his auncstor^r let. C. 18. E. 3.

Note ye, that in this w^rit of Dum non fuit compos mentis, omission of dissent of him that might tend the estate of the partie of the de=maundaunt, shall not abate the w^rit though that hee suruiue him of whose seisin hee de=maundeth, except that he were seised, or had released or had made felonie, or had issue in full life. H. 12. E. 3.

Note ye, that if one being out of his mind make a feoffement in fee, after his death his heire may enter: for the issue was taken vp=on the being out of his mind. C. 12. E. 3. Aⁿ 36. H. 6.

A writ de Ingressu dum fuit
infra etatem.

REx vicec' salutem. Præcipe A. qd' iuste &c. redd^r
B. q plenæ etatis est, vt dic', duas acres terræ cum
ptiñ in N. quas id B, ei dimisit dñ infra etatem fuit,

vt dic'. Et nisi fecerit &c. Teste &c.

This w^rit lyeth where one being within age sell^{eth} his land to him descended or of his owne purchase in f^re or for^r terme of lyfe: when he commeth to his ful age, he^r or his heire may recover by this w^rit: but it is convenient that he be of ful age at the day of his w^rit purchased: but if the infant let his lād for terme of yea^res, & after he make a confirmation or releas within age, he shal not have the said w^rit when he cometh to his ful age, but he may haue in this case assise of Nouel disseisin: for that that the Infant made no lyuerie of seisin.

And note ye, that if land in f^re simple bee sold by one being within age, the heire of the seller shall not maintaine the said w^rit bearing within age, nor no w^rit of Entre, except it be within the case of the Statute of Westm. ij.chap.49. wh^{ch} beginneth, Purview est ense-
ment que nul &c.

Also if the f^{ather} being within age sel lād to him descended in tail and dieth, his issue shall haue a Formedon in the descendre, & not the same w^rit.

And note ye, that if an infant sel his land, he may enter against his own f^{est}ement, & if he be put out, he may haue assise of nouel disseisin, when he commeth to his ful age: but when he cometh to his ful age, it is convenient for him to purchase the said w^rit.

And note ye, that an infant shal recover in a w^rit of right, or any other w^rit according to his case, for such lande that he^r hath of

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his owne purchase.

And also an infant shall be charged to atturne by a writ that is called *Per quæ servititia*, ut patet per Iohannem Copland Termino Michaelis, Anno 25. E. 3. But it is said, that he shall not be charged to atturne by a *Quid iuris* clamat. And note ye, that an infant may mayntaine a writ of *Entre bpon a disseisin* made to himselfe.

And note ye, that if two bring a writ of Right as heires, the one being within age, the ples shall tarie vntil her ful age.

If a man bring a writ of possession, as a writ of *Male*, *Cousnage* or assise of *Mortdauncetor*, and the tenant in anie of these actions say, that his auncestor was seyzed of the same land in his demesne as of fee, after whose death he entereth as sonne and heire, and pray his age, if the troth be so, hee shall haue his age. Otherwisse is in assise of nouel *Disseisin*, for that, þ the disseisin was his own wrong. If an infant bring any writ of possession against one of full age, he shalbe aunswered, as in a *Formedon* in the discenter, if his auncestor died seyzed as of fee taile, for that that it is in place of assise of *Mortdauncetor*: but if ther be pleaded against him in the deede of his auncestor with assets by discent, the ples shall tarie, for that, that hee within age may not confess nor deny the deed of his auncestor: But if in assise of *Nouel disseisin* the deede of the father of the Infant with a warrant bee pleaded against him, the assise shall bee awardeed for the aduantage

tage of the infant to enquire of the circum-
stances of the deede (that is to say) if it be the
deede of the auncstor. And if it so be that the
auncstor was of full age, and of good me-
morie, and if the land passed by the deede or
not, and if he be heire to him, & for these mat-
ters afore, looke the Statute of Gloucest Cap. 2.
which beginneth: Si enfant deins age &c.

Note ye, that an infant shal answer where
he is feoffed within age, and every other case
where he is in of his owne Intrusion. The
same law is in a Writ of Dower where the
heire is bouched to warrantie. The same law
is in appealle if he be of the age of xiiii. yeares.
And note ye, if an infant sel his lande reser-
ving certeine rent, and at his full age he re-
ceiueth the rent, he shalbe barred of his acti-
on. And note ye, that an infant may not sue
an appealle, for that, that he may not suffer
imprisonment, and also for that, that he may
not make ransome.

This Writ was brought in G. the tenant
said that the vsage of that towne is, when a
man can count xii. d. and measure a yarde of
cloth, then he is of age to sel his land, of such
age was the demandant when he demised: &
for that that he put not the age to certeine, so
that the demandant might haue answered to
that, it was awarded that the demaundant
should reconer. P. 13. E. 3.

Note ye, that if the husband & the wife do
sel land that he hath in right of the wife both
being within age, after the death of the hus-
band, the wife shal haue a Dumb fuit infra eti-
tem

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tem, & this is in a writ of wast. M. 14. E. 3.

If the husband & the wife purchase land jointly, the wife being within age, and the husband, and the wife selleth all the land, the husband dyed, the wife shall recover y' whole by this writ. M. 22. E. 3.

Note ye, that it is said by Hanke in assise, that an infant of the age of xviij. yeares may be a disseisour with force and armes, and be imprisoned and aunswere to the wrong made by him &c. and if the infant plead in barre (as he well may) and a title is made against him, he shall aunswere to the title, or otherwise the assise shall be taken, & if he reply against the title which is found against him, it shall not be enquired if he haue any other matter against the title, and that is for the wrong that is supposed in his person, but when he is plaintiff, and a barre pleaded against him, the court of office shall enquire for the infant: for that, that he knoweth not his best right, and the court hath power to enquire for the tendernes of his age. T. 12. H. 4.

Note ye, that it was holden by all the justices, that the circumstances of a deede pleaded against an infant, shall not be enquired in a writ of Entre, nor in no other writ, but where there is a iurie of the first day, for the venire facias is to trie one point certeine. M. 9. Edw. 4.

A writ de Ingressu super diff. in le quibus.
Ex vic' salutem. Præc' A. quod &c. redd' B. vñ
rmel. cum pertin in N. quod clamat esse ius &
hered'

hered' suam & de quo idem A. iniuste & sine iudic' disseisuit C. p̄m præd' B. cuius heres ipse est post prim transfr̄ domini regis &c. In vascon &c. Vel sic. In quod idem A. non habet ingressum nisi per C. cui A. illud dimisit qui iniuste & sine iuditio disseisuit R. patrem præd' B. vel antecessorem &c. cuius heres ipse est post prim transfretationem &c. vel sic. In quod idem A. non habet ingressum, nisi per dimissionem quam C. inde fecit B. patri &c. præd' B. cuius heres &c. post primam &c. Et vnde quæritur &c. Teste &c.

This w̄rit lyeth wher a man is disseised, and dieth, his heire shal haue the said w̄rit against the same disseisour. And note ye, that this w̄rit is not giuen but only for the heire of the disseisie (in what degree so euer hee be.) And in this w̄rit the demaundant shall make title as heire from the auncestour that was disseised. And note: that this w̄rite shall not tarrie for the nonage, as appeareth by the Statute of Westminster 2. Cap. 46. which beginneth, Puruieu est ensement &c. It is said, if the foresaid w̄rit be brought against the issue of the alienie of the disseisour (if he be within age) then the plee shall not tarrie: for that, that it is not within the case of the saide Statute. And the proces is in this w̄rit, and all other w̄rittes of Entre that are plee of lande, and beginneth Præcipe quod reddat &c. **S**ommons, graund Cape, and petite Cape. And this w̄rit shall say: De quo vel de quibus A. dif. B. p̄m &c. cuius heres ipse est.

Note ye: of what things a man shall haue the

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the said w^rit, he shall haue the said w^rit of a
Gorge. M. 8. E. 3.

If a fishing be graunted to an Abbot & he
use the fishing in a severaltie, if he be disseised
& died, his successour shal haue a w^rit of ente
for the ground. M. 13. E. 3.

And note ye: that a man shall haue the said
w^rit Prae^cipe quod reddat pasturam ad duos boues
& this is to be intended that this w^rit lyeth
not against the lord of the ground, for against
him lyeth the Quod permittat. T. 4. E. 3.

A man shal not haue the said w^rit of Prae^cipe
quod reddat passagium ultra aquam against
him that hath the course of the water, but a
Quod permittat. T. 3. E. 2.

A man shal haue this w^rit Prae^cipe &c. quod
reddat balliuam ad custodiendum per eum de L.
cum pertin^q quam clamat esse ius et hereditatem su-
am. M. 7. E. 3.

Note ye, that a man shall haue a Prae^cipe qd'
reddat of a thing that lieth in giuing, as land,
rent, and such like, but of a thing that lyeth
in taking or sufferance to use otherwise is,
as of Common, Estouers, and such like, wher-
of the partie shal haue assise or a Quod permit-
tat. P. 4. E. 4.

A writ de Ingressu super in per.

Rex vic^r salut^r. Prae^c A. quod iuste & sine dilatione
redd^r B. vnum mes. cum pertin^q in N. quod clamat
esse ius & hereditatem suam, et in quod idem A. no^t
habet ingressum nisi per C. qui inde iniuste & sine
iuditio disseisuit T. patrem præd^r B. cuius heres ipse
est post primā trāsf^r dñi H. &c. et vnd^r queritur &c.

This

This writ lyeth where a man is disseised of his free hold, & the disseisour sell to a stranger, or if the disseisour dye and his heire enter, then the disseisie or his heire shall haue theforesaid writ against the alienour, or against the heire of the disseisour. And note ye, that living the disseisour no writ of Entre lyeth for the disseisie but onely assise of Mowel disseisin. And the writ of Entre shall be, Et quod idem A. non habet ingressum nisi per B. qui illud ei dimisit qui iniuste &c. And if the disseisour sell the land, & dye, and he to whom the land was sold sell to another, or in case that the disseisour dye, and his heire enter, and the heire die, and his heire enter, then the disseisour, or his heire shall haue a writ of Entre sur disseisin in the Per, & Cui. And the writ shall be thus: Et in quod non habet ingressum nisi per I. S. cui R. D. illud ei dimisit qui inde, &c. And note if the disseisour sell the land, and dye, and he to whome the land was sold sell to another, & the second alienee sell the land to another man, or in case that there be three discents of the disseisours part, then the disseisie, or his heire shall haue a writ of Entre in the Post, and the writ shall be: Et in quod non habet ingressum nisi post disseisinam quod H. inde iniuste &c. And note ye, that five things putteth the writ of Entre out of his degrees (that is to saie) Intrusion, Election, disseisin upon disseisin, judgement and escheete. First Intrusion is, where the disseisor died seised, and a stranger abate, the disseisie or his heire shall not haue a writ of Entre in

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in the Per, but the Writ shall be in the Post: for that, that the abatour is not in by dissent nor by purchase, but onely by his owne wrong. The second cause is Election, & that is where the disseisour is a man of religion and dieth or is deposed & his successor entreteth the disseisour or his heire shall not haue a writ of Entre in the Per, but a writ in the Post, the cause appeareth. The third is iudgement, and that is, where a man recouereth against the disseisour, and after the disseisour dyed, the disseisour or his heire shall not haue a writ of Entre in the Per, but in the Post. The fourth is Disseisin vpon Disseisin, and that is where the disseisour is disseised and dyed, the first disseisour or his heire shall not haue a writ of Entre in the Per, but in the Post. The fift is Escheat, and that is where the disseisour dieth without heire, or do a felonie, for the which he is attainted, and dieth. The lord entreteth as in his Escheat, the disseisour or his heire shal not haue a writ of Entre in the Per, but in the Post, the cause appeareth. And note ye, that the writ of Entre in the Post is giuen by y statute of Mark in the last Chapter, which beginneth, Prouisum est, &c. And the Proces is Hommons, graund Cape, and petit Cape. And note ye: that if the issue bring a writ of Entre in the quibus, & the tenant plead in barre a feoffement of the same father, the issue shall not be charged to aunswere to the deede, but he shall haue his writ for that, that this is no barre, but it is a trauers to the writ.

A writ

A writ de Entre sine assensu
capituli.

REx vic' salutem. Præc. A. quod iuste &c. redd' B. Abbati sancti Augustini de N. vnum mes. cum pertiñ in N. quod clamat esse ius monasterij sui p̄d'. Et in quod idem A. non habet ingressum nisi per C. quondam abbatem monasterij p̄d', qui illud ei dimisit sine assensu & voluntate capl monasterij p̄d', vt dic'. Et nisi fecerit, & p̄d' B. fecerit &c. Et habeas &c. Teste &c.

This w̄rit lyeth where an Abbot or Prior, or any such that hath couent or common seale selleth land or tenements that he hath in the right of his church, without the assent of the Convent, or chapiter, and dyeth, then his successour shall haue the said w̄rit. And know ye, that this w̄rit may be made in the Per, Cui, or Post, as it appeareth by the Register. And the proces is as in the w̄rit next afore.

A writ de Ingressu sur cui
in vita.

REx vic' salut. Præc' A. quod reddat B. quæ fuit vxor E. vnum mes. cum pertiñ in N. quod clamat esse ius & hered' p̄d' E. in quod idem A. non habet ingressum nisi per prædictum E. quondam virum ipsius B. qui illud ei dimisit, cui ipsa in vita sua contradicere non potuit, vt dic'. Et nisi fec' &c.

This w̄rit lyeth where a woman is scised for terme of life in taile, or in fee simple, and take a husband, and the husband sell the lande and dyeth, the wife shall haue the foreshaid

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foresaid writ. And the Proces is Graund
cape and Petit cape. And note ye, that in
this writ shee shall make title, and the writ
shall say: Quod clamat esse ius et hereditatem suā,
notwithstanding her own seisin. And if the
wife hath other estate then fee simple, as for
terme of life, the writ shall say: Quod clamat
tenere ad terminū vitæ sue & so of fee tail. And in
case that the husband and the wife purchase
ioyntly, & the husband sei al the land & dieth,
the wife shal haue the said writ & recover the
whole. And by the Statute of Westm 2. cap. 3.
which beginneth: In casu quo vir, &c. Wil that
is land, which the husband hath in the right
of his wife, be recovered against the husband
and the wife by default, after the death of her
husband the wife shal haue the foresaid writ
& the tenant shal shew the matter of his first
writ, to which writ the wife shall haue an-
swer, and if it be found that the tenant hath
no right, then the wife shall recover by the
said writ. But if a man recover against the
husband onely the land that he hath in right
of his wife by default or action tried, and the
husband dyeth, the wife shal haue assise, and
not the said writ: for that, that she was not
partie to the iudgement. And note yee: that
where a man is a stranger to iudgement he
may haue trauers to the title comprised in
that iudgement, as in case that I bring a
formed, & the tenant say, that another time
he brought A. of No. diss. against B. & re-
covered of the gift of which he bringeth, and
this action was meane betwixt the disseisin

made

made to him and his recoverie, and demaund
tudgement &c. the demaundant said that by
such a recoverie you may not deferre the
gift, for ye were not disseised, and that am
I readie to auerre &c. and that was thought
a good ples, but the partie that is priuie shal
not haue such an auerrement, for that, that
he is helped by Attaint, Error, or Disceipt,
after his case, and so no mischiefe to hym.

And note ye, that if the wyfe bring her
writ of Cui in vita against the feoffee of her
husbande, and the feoffee bouch to warrant
the heire of the husband that is within age,
the ples shal not tary vntill hys full age,
for that, that it is remedied by the statut of
Westm 2. cap. 40. which beginneth. Cum
quis &c. But otherwise is, if the wife bring
her Cui in vita, in the Per, and Cui, and the
tenant bouch him to warranty by whom his
entrie is supposed, and he bouch ouer the
heire of the husband that is within age, and
pray that the ples may tarie vntill hys full
age, in this case the ples shal tarrie, for that,
that the same statute is not otherwise en-
tended but where the alyenee of the husband
boucheth to warrant the heire of the hus-
band. And note ye, that this action lyeth for
the heire of the wife, for if the husband sell
land that he hath in right of his wife, and
the husband and the wife dye, the heire shal
haue the said writ. But if the wife bee te-
nant in taile, and the husbande sell, or the
husband and the wife loose by default: It is
said that the heire shall haue a Formedon

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in the discender, and not in a Cui in vita.

And note ye, that if the issue bring the said
writ of sur Cui in vita, of the sale made by
his father, he shal not be barred of action by
the warrantie of his father onely wþþout
that he hath to the value of fee simple discen-
ded to hym from his father that made the
warrant. And that is geuen by the statute
of Gloucester. cap. 3. whþch begynneth. Esta-
blie est enselment &c. And in case that the hus-
band let lande that he hath in right of his
wyfe for terme of yeares, and after make a
confirmation for terme of lyfe, or in fes, and
the husbande dyed, it is said that the wife
may not haue the Cui in vita, but Allise of
Mouel disseisin, nor the heire of the wife af-
ter the death of the wife shall haue the sayd
writ, but a writ of Entre sur disseisin, for
the writ shall not suppose such sale to be
made by confirmation, nor by release.

This writ of a Cui in vita was, quam clamat
tenere sibi & heredibus de corpore &c. and shew-
eth not of whose gift, wherfore the writ a-
bated: But in a Quod ei deforceat he shal not
shew of whose gift. H. 4.3. E. 3.

The said writ supposeþ that the tenaunt
hath no entre but by one S. and the tenaunt
said that he entred by the said S. and one
A. his wife, iudgement of the writ, yet the
writ is good, for though that the husbande
made a demise to S. and A. his wife, and
they demised ouer to the tenaunt, yet al shal
be compted the demyse of the husbande,
wherfore the tenaunt pleaded to the action.

But

But if **S.** and **A.** had demised by sine otherwise should be, and that the tenuant should haue pleaded so. **M. 19. E. 2.**

The said writ was brought against the husband and his wife, supposing that the wife hath no entrie but by one **J.** to whom the husband of the plaintife demysed &c. the tenuants said that the husband and the wife entred by the saide **J.** iudgement of the writ, and that p^lee was not allowed without trauersing that the wife onely entred. **H. 33. E. 3.**

If the husbande and the wife, and the third purchase iointly, and the husbande sell all the lande and dye, the wyfe shall not haue a Cui in vita lyuing the thirde, for that, that they may toyne in a writ of Ryght: But if the thirde dye, she shall haue a Cui in vita of the whole, but if the purchase was afore the maryage, then she shall haue a Cui in vita but of the halfe, no more then a Cui ante deuortium. **M. 36. E. 3.**

If the husband be seised of land for terme of lyfe in the right of the wife, and thereof make a feoffement, by force whereof he in the reuersion enter, and the husband dyed, the wife shal haue the lande againe. **9. E. 2.** **Lib. AII.**

If the husbande discontinue land that he hath in the right of his wife and dye, if the wife accept part of the lande in name of dower. Quare if she shalbe barred. **M. 10. E. 3. H. 7. E. 3.**

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If a man geue lande to a woman vpon condition that shes shall sell the land, and to distribute þ money for the soule of the feffor, the wife taketh a husband, and after the husband and the wife sell the lande and distrybute the money according, the husbande dyeth, the wife shal not have a Cui in vita.

¶ A wryt de Ingressu cui ante deuortium.

REx Vic' salutem. Præcipe A. quod reddat B. quæ fuit vxor C. vnum mes. cum pertinentijs in T. quod clamat esse ius & hæreditatem suam, & in qd' idem A. non habet ingressum nisi per predict' C. quondam virum ipfius B. qui illud ei dimisit, cui ipsa ante deuorc' int' eos celebrat cōtradicere non potuit, vt dic'. Et nisi fec' &c. Et habeas &c. Teste &c.

This wryt lyeth where a man selleth land that he hath in the right of his wyfe, as afoxe is said in the Cui in vita, and afterward a diuorce is had betwixt them, then the wife after the deuorce or her heire shal recouer against the feffor, his heire or his assygnes, or what person socuer that is in the lande. And this wryt may bee made in the Per, Cui, or Post. And the proces is, as in the wryt next afoxe.

¶ A wryt de Ingressu causa Matri-
monij prælocuti.

REx Vic' salutem. Præcipe A. quod &c. reddat B. vnum mesuag. cum pertinentijs in N. qd' idem A. ei dimisit causa matrimonij inter eos prælocut, qui eam duxisse debuit in vxore & nondum duxit vt dic'. Et nisi fec' &c. Teste &c.

This

This w^ryt lyeth wher a woman g^reue^th
certaine landes, tenements, or rentes to
any man vpon condicion, that he shall mary
the said woman within a certaine time, if
the man wil not mary the said woman with
in the said time (betwixt them assigned) or
if the man disable himselfe as in taking of
another woman to hys wife in the meane
time, or bee made a p^riest, so that she may
not take him to husbande, according to the
condicion, she or her heires shal recover the
said landes against the said man, or against
whosoever bee in the lande, by this said
w^ryt, for this w^ryt may be in the Per, Cui,
or Post.

And note ye, that it is conuenient that this
condicion be made by indēture, or otherwise
this w^ryt lyeth not. And the proces is as in
the Cui in vita.

In a Cui in vita, the tenaunt said, that the
said R. her husband gaue the same landes to
the wife, now demaundant, causa matrimonij
p^raelocuti, and after tooke her to wife &c. And
so the effect of the gift &c. Deuon. If a man
geeue land to a woman by fine, and the next
day he marie her, suppose you that the fine is
borde: whch proueth that by the espou-
sels, the gyft nor the graunt is not defeated.
B.7.C.3.

¶ A writ de Intrusion.

R Ex Vic^t salutem. Præcipe A. quod &c. reddat B.
vnum mes. cum pertinentijs in N. quod clamat
esse ius & hereditatem suam, & in quod idem A.

R.iiij.

non

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non habet ingressum nisi per intrusionem quam in illud fec' post mortem C. que fuit vxor G. quæ illud tenuit in dotem de dono præd' G. quondam viri sui, patris prædict' B. cuius haeres ipse est, ut dic'. Et nisi fecerit &c. Teste &c.

This writ lyeth where the tenuant for terme of lyfe, or of another mans life, tenuant in dower, or tenuant by curtesie dyeth seised of certaine landes & tenements, and a straunger enter, he the reuersion shall haue the said writ against the abator, or agaynst whosoever that is in the land after the death of such tenants.

And note that this writ may be in the Per, Cui, or Post, as other writs of Ent re.

And note ye, that Assise of Mordauncester, Aycl, Cosinage, assise of Darreine presentment, & Nuper obijt, are called writs of possession, in whiche writs a man shall recouer damages, costes, and the issues of the land or tenement demaunded. And note ye, that a writ of Intrusion in the time of vacation shalbe maintayned for the successor against the abatour that is in, in any land or tenement that belongeth to his church after the death of hys predecessor, and that is geuen by the statute of Marlebridge cap. vltimo. And the proces is as in the Cui in vita.

The graundfather, father, & the sonne are, and the graundfather let land to the father for terme of his lyfe, the graundfather & the father died, and a straunger abate, the sonne shall haue a writ of Intrusion, and declare of the seisin of the graundfather, and make dis-

discent by his father. **H.7.E.3.**

If landes be let for terme of lyfe, the remainder ouer in fee, the tenant for lyfe dyed, a straunger abate, he in the remainder may choose to haue a Scire facias, or a Writ of Intrusion. **P.6.E.2.**

¶ A writ de Ingressu ad communem legem.

REx Vic' salutem. Præcipe quod iuste & sine dilatione reddat B. vnam bouatam fræ cum pertin in N. quam clamat esse ius & hæreditatem suam, & in quam idem A. non habet ingressum nisi per C. que fuit vxor D. qui illam ei dimilit, & quæ illam tenuit in dotem de dono predicti D. quondam viri sui, patrem predicti B. cuius hæres ipse est, ut dic'. Et nisi &c. Et habeas &c. Teste &c.

This writ lyeth wher the tenat for terme of lyfe, or of anothers lyfe, tenant by curtesie, or tenant in dower, make a feoffement in fee and dyeth, he in the reuersion shal haue the foresaid writ against whosoeuer that is in the land, after such feoffement made.

And note ye, that this writ may be made in the Per, Cui, or Post.

And note ye, that it is geuen by the statut of West. 2.ca. 3. which beginneth. In casu quo vir &c. if tenaunt in dower, or by the curtesie loseth by default & dye, he in the reuersion shal haue the said writ: but if the tenant by the law of Englande make a feoffement, or loose by defauit & dyeth, he in the reuersion may recouer by Assise of Mortdauncelot, Ayele, or Colnage, notwithstanding the sei-
gn of þ tenant by the curtesie, as it appeareth

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by the statut of Glouc cap. 3. which begin-
neth. Establie est, que si home de &c. where hez
might haue had the w^rit of Entre at the cō-
mon lawe. And the proces is as in other
w^rits of Entre.

In a w^rit of Entre at the common law, the
w^rit shewed not the death of the tenant for
terme of lyfe, wherefore the w^rit was aba-
ted by judgement, and after reuersed in the
kings Bench, for that, that there is no other
fourme of w^rit. M. 16. E. 3.

¶ A writ de Ingressu in casu prouiso.

REx Vic^r salutem. Præcipe A. quod &c. reddat B.
Rvnus mesuag. cum pertinen^r in N. quod clamat
&c. & in qd' idem A. non habet ingress. nisi per C.
quæ fuit vxor G. quæ illud ei dimisit, vel quæ illud
tenuit in dotē de dono præd' G. quondam viri sui,
patris prædic^r B. cuius hæres ipse est, qd' per dimissi-
onem per ipsam C. præfat B. contra formam statuti
Glouceſt. de communi consilio Regni Angl inde
prouis. factā in feod', ad prefat B. reuerti debeat per
formam eiusd' statuti ut dic'. Et nisi fecerit ut supra.

This w^rit is geuen by the statut of Glo^r
cap. 7. which begynneth. Enſement, que si
feme vnde &c. and lyeth where tenant in do-
ſwer maketh a feoffement in fee taile, or for
terme of lyfe of the lessee (lyuing the tenant
in doſwer) he in the reuersion shal haue thys
w^rit against him that is in the lande. And
this w^rit may be made in the Per, Cui, or Post,
as other w^rits of Entre.

And note ye, that this w^rit lyeth during
the lyfe of the wife & not after the death.

¶ A

¶ A writ de Ingressu in consumili casu.

REx Vic' salutem. Præcipe A. quod iuste & sine
dilatione redd' B. vnum mes. cum pertin in N.
quod clamat esse ius & hæreditatem suam, & in qd
idem A. non habet ingressum nisi per C. qui illud
tenuit per legem Angliae, post mortem G. quondam
vxor suæ, matris predict B. cuius hæres ipsa est. Et
que post dimissionem per ipsum C. prefat A. inde
fact in feodo ad præfatum B. reuerti debeat p for-
mam statuti in consumili casu prouis. Et nisi fecerit
&c. Teste &c.

This writ is takē by the equitie of the sta-
tute of Glouc cap. 7. and iþeth wher the
tenant for terme of lyfe, or by the curtesy
make a feoffement as afore is sayde, he in the
reuersion shall haue this writ against who-
soeuer bee in the lande during the lyfe of the
tenant by the curtesy, or tenant for terme of
life and not after their death. M. 12. E. 3.
And this writ may be made in the Per, Cui,
or Post. And the proces in these two writs
is Somons, graund Cape, & petit Cape.

Note yee: that this writ was maintai-
ned by the tenant in tayle in the reuersion
and the writ made mention of the tayle. H.
21. E. 3.

Note yee: that this writ was purchased
duringe the lyfe of the tenant for terme of
lyfe, and hanging the writ the tenant dyeth,
yet the writ was awardeed good, for that,
that he was a straunger to the writ and also
the action is brought of the aþenatyon. E.
6. E. 2.

If a man let landes for terme of lyfe, the
remain-

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remainder to another in fee by fine, the tenant for terme of lyfe made a feoffement in fee, hee in the remainder in fee brought the said w^rit, and the w^rit was good by the opinion of the Court. H. 2 8. E. 2.

Note ye, that the grauntor of the reuersion brought the said w^rit, and was iudged good ex assignatione &c. H. 1 2. E. 2.

A writ de Cessauit per biennium.

REx Vic' salutem. Præcipe A. quod &c. reddat B. R^unnum mes. cum pertinentijs in N. quod idem A. de eo tenet per certa seruitia. Et quod ad præfat B. reuerti debeat per formā statuti de communi consilio Regni nostri Anglⁱ inde prouis. eo quod præ A. in faciendo seruitia prædict^r per biennium iam cessauit, ut dic^r. Et nisi fec^r &c. Teste &c.

This w^rit lyeth wher my verie tenant holdeth of me certaine lauds or tenemēts by the seruices of homage and fealtie, and to greeve to me every yeare at certaine termes of the yeare certaine rent: of whiche seruices I was seised by the hand of the tenant, then if he cease of the payment of the said rent by ii. whole yeares, so that I could not finde a distres in the said tenements. s. no goodes whereby I myght distreyne hym to haue paide the said rent, but suffereth the landes to lye freshe without manurance after the said two yeares past, the said tenements because of the cesse ought to reuert to me, and then I may not recouer by this w^rit against my tenant or his heire, or against whosoever be in after the said cesse by ii. yeares.

End

And note ye, if he against whom my writ is brought, come in court afore iudgement geuen, and pay to me the arreages & damages reasonable for the said cesse, and finde suertie (as the Court will award) that he shal cesse no more of the payment of the rent, then he shal hold still the said tenements, so that I shall not recover by this writ.

And note ye, that the heire may not main- taine this writ, because of a cesser made in time of his auncestoz, nor shali haue no rent suit, nor arreages due in the life of his aun- cestoz. And also it is said, that this writ ly- eth of the cesser of no seruices, but of perely seruices, as of rent and such lyke, and not of hoinages, fealtie, escuage, and relieve, for these are no perely seruices.

And note ye, that if I dye seised of perely seruices, and the tenant cesse the two yeres next after my death, so that my heire was never seised of the seruices, yet my heire shall haue the said writ against the said te- naunt or his heire, or against what person soever that is tenaunt, and he shall name him selfe heire to his father in the writ. And so is the statute of Westminster 2. cap. 21. which beginneth, Cum in Statuto apud Glou- cest. &c.

In a Cessauit the writ was, that one I. holdeth certaine landes by certaine seruices, and that the said I. hath cessed, and decla- red that I. holdeth of him the manor of M. whereof the Carue is parcel by certaine ser- uices, & that the tenant hath no entrie but by

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I. and the w^rit was challenged: for that, that he declared that the whole manor was holden of hym by certaine seruices, and he^s assigned the cessour but in the land demaunded that is parcell of the manor where he^s ought to haue assygned the cessour in the whole manor, and that exception was not allowed, for the cessour shall not be assigned but in the land demaunded. C.8. E.3.

A Cessauit was brought against A. & declared that W. helde of him, and that the tement^s ought to reuert, for that, that the said W. hath cessed, and the w^rit awarded good without speaking of any entre. M.29. E.3.

In a Cessauit be found iij. pledges, and the court awarded, if the rent be behinde after that the Lord shall distaine in the land of the pledges. In 31. E.1.

Two coparceners are intituled to haue a Cessauit, the one hath issue and dyeth, he that suruyueth shall not haue the action. Otherwise it is of ioyntenaunts: If the husbande hath a seigniorie in the right of his wife, and the tenant cesse, & after the husband dyeth, the wife shal haue the Cessauit. M.33. E.3.

In a Cessauit the tenant said, that he^s hath declared in the right of his Church, in the w^rit is not comprehended, quod clamat esse ius ecclesie suæ, and therefore he demanded iudgement, but the plee was not allowed, for that, that the Abbot shal not make title in this w^rit, for that, þ it is geuen by the Statute. M.10. E.3.

Note ye by Prison, that a Cessauit lyeth of
Suit

suit of court, if the Lord hath a court, if not the tenant may alledge that. M. 33.

Cessauit was maintayned by an infant, for that, that it is geuen in place of auowrie, notwithstanding that it be a wryt of Right in his nature. M. 17. E. 2. P. 10. E. 3.

Note ye, that a Cessauit lyeth not for the honour against the donee, but if land be gauen in taile the remainder over in fee, the chiefe Lord shall haue a Cessauit against the tenant in taile, for that, that the Lord shall not be barred by the act of a straunger. C. 19. E. 3.

¶ A writ de Cessauit per biennium de feodi firma.

REX VIC' SALUTEM. PRECipe A. quod &c. reddat B. unum mes. cum pertinentijs in N. quod idem B. eidem A. dimisit ad feodi firmam, reddend' inde per annum eidem R. terc' partem seu valorem mes. praed'. Et quod ad ipsum B. reuerti debeat per formam statuti &c. inde prouis. eo quod predict' A. in solutione firmæ praed' per biennium iam cessauit, ut dic'. Et nisi &c. Teste &c.

This wryt lyeth where a man geueth certayne land in fee simple, or in fee taile, paying to him and to his heires in fee ferme by yeare, that is to say, rent, or to finde to hym and to his heires Estouers or clothing, the whiche charge so reserved to hym and to hys heires amounteth to the value of the iiii. part at least, or more, as to the third part, or the halfe, or the berie value of the lande or tenement so charged, then if the sayde

fee

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fee ferme be not paide by two whole yeres, nor that he may not finde distres in the sayd tenementis within the said two yeres, then shall he or his heire recouer against the tenant by theforesaid w^rit.

And note, that no man may distraine for these charges but where those tenementes are g^euen in taile, as afore is said, or that they were g^euen in fee simple afore the statute of Quia emptores terrarum &c. for if tenementes be g^euen in fee simple after the statute aforesaid, a man may not distraine.

And note ye, that the heire shall not haue this w^rit because of such charge behynde in time of his aunceltoz, And the proces is in this w^rit graunde Cape and petit Cape.

¶ A writ de Cessavit de Cantaria per biennium.

REx Vic^r salutem. Pr^rincip^e Iohanni Abbat^r de N. quod reddat B. vnum mes. cum pertinentijs in N quia A. pater pr^red^r B. cuius haeres ipse est, dimisit C. quondam Abbat^r & success^r suis Abbatibus de N. pr^red^r, ad inueniendum quendam Monachum pro animabus pr^red^r A. & hered^r eiusdem A. in abbat^r de N. pr^red^r diuina celebrat. Et quia ad pr^refatum B. reuertere debet per formam statuti de communi consilio Regni nostri Anglie super huiusmodi dimissione prouisi, quia pr^red^r Iohannes inueniend^r pr^red^r Monachum per biennium cessavit, ut dic^r. Et nisi fec^r &c. Teste &c.

This w^rit lieth where a man g^eueth l^{ad}s to any Church to finde for the soule of him & his aunceltoz and his heires, a candle

or lampe before the Sacrament to burne for a certain time, or to do any almes, viz. as to cloth or feede certain poore people every yere, or to do diuine seruice in any Chappell for their soules &c. vt supra. Then if the saide charges be not done, and that a man may not finde distres vpon the ground by two yeres, then he or his heires shall haue the said w^rit after the said two yeres past, against who soever that is tenant after the cessor.

And note ye, þ^r these w^rits aforesayd may be made in the Per, Cui, or Post, but I believe that this w^rit may not be made but in the first degree. And the proces as aforesaid.

In a Cessauit against a Priest of Chaun-
tera, supposing that he holdeth the same te-
nements of the wife of the demaundant by
the seruices to sing every Sunday in the
yere Mass and Mattins, and that he and al
his predecessors hath holden the said tene-
mentes by such seruices, tyme out &c. the
which landes to them ought to reuert, for
that, that he hath cessed by two yeres, and
for that, that the statute is, Quod competet
actio donatori aut eius heredi, and that he hath
not declared that it was donour, or of whose
gift he holdeth the land, the w^rit was aba-
ted. M. 7. R. 2.

¶ A writ de Contra formam collationis.

REX VIC^o salutem. Pre^cipe A. Abbatⁱ de N. quod
reddat B. vnum mes. cum pertineⁿ in P. quod ei-
dem domui collatum fuit in liberam eleemosinā per
præ-

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prædictum B. Et qd' per alienationē per predictum
Abbatem, contra formam collationis prædictę inde
factam in feodo ad præfatam B. reuerti debet per
formam collationis prædictę, vt dic'. Et nisi fec' vt
supra. Teste &c.

This writte lyeth wherē a man gēueth
landes or tenements, or rent to any Ab-
bot or Prior of any house of Religion, or
holy church, to haue and to holde to him and
to his successors in pure almes or otherwise
to finde certaine poore people, or to make cer-
taine diuine seruice, as afore is said, in the
writ of Cessavit de cantaria, then if the sayd
Abbot or Prior, or any of his successors
make a feoffement with assent of the said te-
naunts, to the disherison of the house or
church, as for terme of lyfe of the lessee, in
taile, or in fee, he that so did gēue the sayd
tenements, or his heire shall haue the said
writ against the soueratgne of the said house
or church that made the fessement, or against
his successor, if the fessours be dead, and
not against the feoffee that is tenant of the
land, as it appeareth by the statut of Westm
2. cap.41. which begynneth. Cum statuit do-
minus Rex &c. and when he hath recovered
against the Abbot, then shall go a writ of
Execution to the Shirife to deliuer seisin
of the land. And the proces is Summons,
graunde C ape, & petite C ape.

Note ye, that if an aduowson be gēuen to
an Abbot in free almes, and graunt the said
aduowson at the next auoydance, the do-
nour or hys heires may present, for that,
that

that he may not haue a Contra formam collationis. i. 7. 20. E. 3.

And note ye, þ when he hath recouered agaist an abbot in this wȝit, & hath a scire facias against the tenant, he may trauerse the action of the demaundant in the same point þ was tried afore betwixt the abbot & the lord for that, þ this recouery bindeth no strāgers but priuies, as in other cases. H. 23. E. 2.

q A writ de forma donationis in the discendre.

REx vic salutem. Prec A. quod iuste &c. reddat B. vnum mes. cum pertin in N. quod C. dedit B. & E. uxori eius & heredibus de corporibus ipsorum B. et E. exeuntibus. Et quod post mortem dictorum B. & E. prefato B. filio & heredi prædictorum B. et E. per formam donationis p̄d discendere debet. Et nisi fecerit &c. Teste &c.

This wȝit lyeth in case where a man giveth certaine landes or tenements, or rent in free maryage, that is to say to a man with his cousin in maryage, or to a man & his wife and to the heires of their two bodies begotten, or to a man & to his heires of his bodye begotten (males or females) if that man or woman, to whom the land is so geuen hath issue of his body & died, & a straunger abate, or if the donee make a fessement of those lāds by fine or without fine, or if he be disseysed of those tencementes, or if a man those recouer by default in the kinges court, then after the death of the same man to whom the lande is geuen, his heire of his body begotten shall

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haue the said w^rit. And note yee: that tene-
mantes in such maner geuen are called tay-
led landes. And note ye: that the heire of such
tenantes shal never haue other w^rit of the
possession of his auncestour, then the sayde
w^rit, but of his o^wn possession, he may haue
assise of Mouel dissey^{un} or a w^rit of Entre
Upon disseisin according to his case, and the
Formedon in the discendre is the w^ritte of
Right to the heire in taile. And note ye: that
it is a good barre in the sayd w^rit to pleade y^e
feoffement of the auncestor with a warrat^y,
& that the tenant wil auerre y^e the heire hath
assets by the dissent in fee simple notwithstanding
the statute of Westm 2. cap. 1. whiche be-
ginneth. In primis de tenemtis &c. if the heire in
the taile hath assets by dissent ut supra, & he^s
hath issue & make a feoffement of the asset^s y^e
is in fee simple, & die, though that his father
had assets by dissent & was barred, this heire
shal not be barred, for euery heire in the tayle
is priuy to recover the land tailed except that
he hath aduantage by dissent in fee simple. O=>
therwise is where a man maketh a feoffement
of the land that he hath in ryght of his wife
in fee simple that he holdeth by the curtesse &
dyeth, & y^e value in fee simple discēdet^h to his
issue that is heire to the wife, though that y^e
heire sel the fee simple after & hath issue & die,
that issue shal be barred to demand of the sei-
gn^u of his mother: for that y^e his father was
barred at one time. And note ye, that if the
father tenant in tail in possession enter in re-
ligion & be professed, his heire shall haue the
said

said w^ryt, & it shal say thus. Postquam pater suus
habitum religionis assupit &c. But if the father
make a settlement afore the entry in religion,
the sone shal not haue y^r said w^ryt during the
natural life of his father. And it is said, that
if the tenant in the tayle die without issue of
his body, so y^r the lād is reuertible to the do-
nor, yet the wife of the tenant in tayle shall
haue her dower. Also it is said, if land be ge-
uen to a woman & to her heires males of her
body begotten, if she take a husband and hath
issue female, & the wife die, the husband shall
not hold by curtesy for that, that it is impos-
sible that the issue female shal enherite, but if
land be geuen to a man, & to his heires males,
it is sayd that if he hath issue male and dieth,
the issue hath fee simple. And note, that a man
shal lay the taking of the profits in a form=
done in the discender onely in the person of
him to whom the land is geuen in the tayle, &
the demaundant in this action shal make him
selfe heire to the auncelbor^r that was last sei-
sed. And note y^r: that if the tenant in tayle
hath issue a sonne and a daughter by one wo-
man and a sonne by another woman, and di-
eth the sonne by the first woman entret^r and
dyed seyzed, the sonne by the seconde wo-
man shall enherite and not the daughter,
for he is more worthye of bloud, and more
neere heire to the father to whom the land
was geuen, otherwyse is of lande in fee
simple. And note y^r: howe the demaun-
daunt maye mayntayne the sayde w^rytte
wherc the tenant pleadeth that the donour

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did not geue &c. the demandant may say that he shal not haue his auerment, for one J. M. impleaded my father, & he vouchyd the same J. & entred into the warraty, & plede & lost the same land that now is in demaund, iudgment &c. And note ye: that in a formedon in the discender a warrant of any of the auncetors by whom the heire made conueyance is no barre, except that he hath lande in fee simple discended to the value.

Land was let for terme of life, the remainder in taile, the tenant for terme of life dieth, & the tenant in taile hath issue & dieth, & the issue bringeth a formedon in the discender, & alledgedeth no esplees in the donor, but in the tenant for terme of life, & after his deathe in him in the remainder in taile, & the declaracion was challenged, for that, that he alledged not espleas in the donor, & the exception was not allowed. P. 8. E. 3.

Tenant in taile exchaunged the land payed for lande in fee simple (by deede) & bounde him & his heires to warranty, & hath issue & dieth, & the issue bringeth a formedon & the tenant pleadeth in barre the deede with warranty, & the land taken in exchaunge by way of Allise: that was holden no barre, if the heire hath not occupied the land taken in exchaunge after the death of his auncetor. An 18. H. 8.

The tenant in taile afore the statute made a release for terme of life, and released afore the statute: that is a barre to his heire. H. 44. E. 3.

In a Formdon of rent, the warrant of the auncstor with assets is a good barre, yet the rent lyeth not in discontinuance, but at the wil of the issue, but it is the folly of the issue to bring his action. H. 33. E. 3.

Note ye, that if the wife tenat in tail take a husband, and hath issue, & afore the statute they both make a feoffement in fee of the lands and dye, in a Formdon the heire shal not be barred, otherwise is if it had been by syne. C. 4. E. 2.

A Formdon in þ discender was brought of a knyghtes fee, & the wȝit was challenged for that, þ the fee lyeth not in demesne, for he hath declared þ the auncstor was seised as of fee & of right, & laid þ espless, as in homage, escuage, relieve, ward, mariage, & other manner of issues of knyghtes fee, as of fee and of right, & Gerfarde said, that a cōmon to a certayne number of beastes noȝ aduowson lieth, not in demesne, but a Præcipe quod reddat, and a wȝit of ryght lyeth of a knyghtes fee, and by demaunde of a knyghtes fee I shall recouer by chaunce xx. li. of rent &c. and it was said that hee shall neuer haue other wȝit C. 10. Ed. 3.

In a Formdon the wȝit was challenged for that, þ it wil that A. & B. his wife hath gotten, exception was taken, because that the gift of the wife is boide during the mariage, & Herle said, that if the wife after the death of the husband had confirmed the gift þ was made by her and her husband, that then the gift was made stedfast, and the wȝittes was

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awarded good. In Formedon was brought by J. G. & J. his wife, & it was sayde when the sonne is seised after þ death of his father the wȝit shalbe. Et quæ post mortem prædictorū I. & M. fil. & hered' prædicti I. þfato B. &c. so that they are seised euery one shalbe made heire to another, but when they were not seised the wȝit shalbe. Et quæ post mortem præd I. & VV. filie. A n 19. E. 2.

In a Formedon in the discender by assent of the parties, a dæde was shewed to prove the gift, and it was such. Sciant &c. quod ego Hugo Blont dedi, concessi &c. Hugoni B. filio Hugoni B. & filijs suis masculis de corpore suo legitime procreat̄ manerium de B. &c. habend', & tenend' manerium þd' sibi & filijs suis masculi de corpori &c. de capitali dominis &c. Et qui eorum diutius vixit gaudebit in feodo & hereditat̄ imperpetuum. Et si contingat þd' Hugonem sine herede masculi, de corpore suo legitim procreat̄ obire, quod ex tunc manerū prædicti &c. mihi & hered' meis revertatur imperpetuum, & upon this dæde it was demurred in judgement if the donee hath fee simple, or fee tail, & the opinion of the court was that it was good tail. C. I I. R. 2.

¶ A writ de Forma donationis in the remainder.

Ex vic' salut. P̄i A. q̄ &c. redd' B. vnum mes. cū pertinē in N. quod E. dedit D. et her̄ de corpore suo exeunt̄. Ita quod si id D. sine her̄ de corpore suo exeuntibus obierit þd' mes. pref. B. & hered' suis remaneret. Et q̄ post mortem præd' B. pref. B. remaner̄ debet per form̄ donationis præd' eo quod prædict' D.

D. obiit sine heredate corpore suo exente, ut dicitur. Et nisi fecerit &c. Teste &c.

This writ lyeth where land or tenement is given for terme of life or in taile to a man, and for default of issue of his body to remaine to another man, as aforesaid is sayde, in fee, or for terme of life, then if the tenant for terme of life dyeth, or the tenant in taile dyeth without issue of his body, & a straunger enter, he in the remainder shall haue the sayde writ. And in case þ the remainder be graunted in taile, and he in the remaynder dyeth seised by force of the remainder, the issue of him in the remaynder shall haue no other writ but a writ of Formedon in þ discender, but if he in the remainder was neuer seised, the issue shal haue a Formdon in the remainder and not in the discender. And it is sayde, where land is let for terme of life, the remainder ouer, & the tenant for terme of life is impaled, & bouch to warrant his lessor &c. & the tenant for terme of life recouer other land in value, he in the remaynder after the death of the tenant for terme of life shal recouer by a Formdon in the remainder those lands so recovered, as well as if the tenant for terme of life had continued his estate in those lands recovered against him, for that, þ the tenant for terme of life recovered to the value by the same taile vpon which the remainder was taile, Otherwise is of a reversion, for that, þ he hath recovered vpon another deede then vpon the deede by which the reversion was graunted, but if the tenant had bouched him

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to whom the reversion was graunted because of the reversion, and he had bouched ouer the lessor, and had recovered to the value, the reversion shalbe to him to whom the reversion was graunted & not the lessor. And note ye, that if tenant in taile make a feoffement with a warrant, or release with a warrant, & dye without heire of his bodye, so that he in the remainder is heire to him, he shall bee barred without dissent of assentes, for that, that this warrant is not restrainyd by the statute. And if the tenant for terme of lyfe make a feoffement with warrant or release with warrant, and die without issue, so that he in þ remainder is heire to him in a Formdon in the remainder he shal be barred by the deede with warrantie, except that the warrantie be defeated in the life of the tenant for terme of life.

And note yee, that after the biewe the tenant shall be receyued in a Formdon in the remainder to demaunde what he hath in the remainder, and except that he hath swytting to shew all times hanging the plee, he shalbe barred, and yet the tenant may take no issue vpon the deede but ought to aunswere to the gift, & if the said swyt bee brought by him to who the remainder was tayled after þ death of the tenant for terme of life, if he demaunde fee simple, or fee taile, he ought to lay the es- pices in the person of the donor, as of fee sim- ple, and in the person of the tenant for terme of life as of free holde, but if he demaunde by remainder but for terme of life, he shall laye the

the esplas onely in the person of hym that made the deede.

If the remainder be taile to a woman and shal take a husband, the w^rit shalbe remanere deber to the husband and to the wife, and so it is of a Formedon in the reuerter, but in a Formedon in the discender, it shalbe to the w^rit onely. B. 29. B. 6.

In a Formedon in the remainder, the tenant demaunded what he had of the remainder, and so the other said, that he brought assise of Nouel disseisin of the same lands, and the tenant in the assise pleaded in barre, & he made title of the same gift, and the gift was found, the demaundant was indged personable by the recouery to maintaine this action without shewing other deede, & yet the pleintife toke nothing by the assise, for that that it was founde that the pleintife was not disseised. P. 10. E. 3.

In a Formedon in the remainder, the partie neede not shew no deede vnto the partie demaundant what he hath of the remainder, but if executors bring an action they ought to shew the testament without desire of the party defendant, for the court shal not holde ple, except that the testament be shewed, and that in debt. B. 36. E. 3.

¶ A writ de Forma donationis en le reuerter.

REx vic' salutem. Prec' A. quod &c. redd' B. vnum
mes. cum pertin^{it} in N. quod E. pater præd' B. cu-
ius heres ipse est dedit D. & I. vxor eius, & hered'
de corporibus suis exequunt. Et quod post mortem
ipso^r

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ipsoꝝ D. et I. ad prefatꝝ B. reuert̄ debet per form̄ do-
nationis præd̄ eo ꝑ p̄d̄ D. et I. obierunt sine hered̄
de corporibus suis exequitibus ut dic'. Et nisi fecerit
&c. Teste &c.

This w̄rit lyeth where lands or tenement̄
are geuen in the tayle as afore is sayde, if
the tenant die without issue where there is
no remainder, & a straunger enter in the said
tenement̄, the donour or his heire shal haue
his recovery by this w̄rit. And note ye, that
this w̄rit lyeth after the death of no tenant
but after the death of tenant in tayle. And
note ye, that in this w̄rit the esplees shal be
layde in the person of the donour, and in the
person of the donee. And the proces in these
thre w̄rits is Homons, graund Cape, and
petit Cape.

In a Formdon in the reuert̄ the tenant
laid, that the gift was made to the donee and
to his heires, and assignes, iudgement of the
actio, & that was holden no place without tra-
uerſing the gift. C. 2. B. 6.

In a Formdon in the reuert̄, the tenat
sayd that the gift was made to him to whom
ye suppose the gift in fee with warrat, iudg-
ment if contrary the deede &c. C. 17. E. 3. C.
33. E. 3.

Note ye, that if the donor hath issue two
sonnes, and the eldest sonne die without issue
in the life of the father and after the father
dyeth, if the yongest sonne bring a Formdon
in the reuert̄, he shal not make mention of
his brother, except that he suruived his fa-
ther. B. 18. E. 2.

A writ de Partitione facienda.

REx Vic' salut. Si A. fecerit tunc sum &c. B. quod sit &c. tali die ostensurus, Quare cum idem A. & B. insimul & pro indiuiso tenent quendam bos- cum in N. cum pertinentijs de hereditat, quæ fuit I. patris prædictorum A. & B. cuius hered' ipsi sunt in N. id' B. ad partitionem inde inter eos secund' legem & cons. regni nostri Angl' faciendam contradic' & eam fieri non permittit minus juste ut dic'. Et habeas ibi &c. Teste &c.

This writ lyeth in case where a man is sei- sed of lands and tenements in fee, and hath two daughters and dieth, or seised of land in Gauelkinde & hath issue v. sonnes, & the one will not make partition of the landes so dis- censed, the other that wil make partition, shal haue this writ against her, or him that will not, for that, that they are heires to the said man iointly &c.

In a Partitione facienda against C. and D. his wife, of lād that descended to them as co- sins & heires to one R. the tenant sayde that R. in his life enfeoffed one J. in fee, which J. enfeoffed the sayde C. in tayle without that, that the plaintiff, & D. wife of the sayd C. helde in common or vndeuided the day of the writ purchased or euer after, and this is a good barre. An 39. H. 6.

In a Partitione facienda of land & rent the te- nant said that the auncstor enfeoffed a strā- ger of the land whose estate the tenant hath, & as to the rent, he said that he was sole te- nant, wout that, that he holdeth vndeuided, & the plee was challenged in so much þ he hath

no

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no title to the lande by any feoffement nor other title and shalbe intended tenant as the wryt supposeth, & the opinion was, that the ples is good. M.4. B.7.

Note ye, that it is said, that tenant in common ne iointenant shall not be compelled by the law to make partition, but if it be made by agreement, it is good as wel without deede as with deede M.3. B.4.

A wryt of Particione facienda brought by the husband and the wife against the other parcerer, and declared howe the husbande and the wife as in the right of the wife, and the other parcerer held in common certain lande & conueied the discent from the common ancestor &c. the parcerer came by gardeine: for that, that she was within age, and might not deny that they helde in common by the maner, but Herle sayde, that he could not see howe the particion can be made as longe as shre is within age by wryt: but out of the Court it may well bee as in the Countrey: for that, that she may defeate it when shre will. P. 8. E.3.

¶ A writ de Premunire facias.

REx vic' Cantuar' sal. Cum in statuto in parlamento domini Regis Anglsecundo apud VVinton Anno regni sui 15. tento edito inter cetera ordinat fit & stabilit, quod si aliquis impetraverit aut psecutus fuerit seu impetrari vel psequi fecerit in cur' Rom vel alibi aliquos processus, summonias, excōmunicand', bullas, instrumenta, vel alia quecunque quæ

quæ tangunt nos, coronam regalem, seu regnum nostrum, & illi qui ea in dictum regnum nostrum detulerint, aut ea receperint, vel ind' notificationem, seu aliam executionem quamcunque infra idem regnum nostrum, seu extra, fecerint: ipsi notarij, procuratorj, manutentores, abettatores, faultores & confiliarij sui extra protectionem nostram ponant, & terre, tenementa, bona, & catalla sua sint nobis forisfact. Et quod ipsi per corpora sua attachient, si poterint inueniri, & coram nobis & confilio nostro ducantur, ad respondendum ibid' super casibus supradictis, vel processus fiat versus eos per premunire facias modo quo ordinatum est in alijs statutis de prouisoribus, & alijs qui in alienis curi, in derogationem regaliæ nostræ prosequuntur, prout in statuto predicto plenius continet. Iamq; ex graui querela VV de E. acceperimus, quod licet cognitiones plitorum transgressionum, contemptu, aliorumq; laicorum contrac quorumcunque infra regnum nostrum Angliæ qualitercunque fact, et ppetrata ad nos, coronam & dignitatē nras specialiter pertineat: Quid' tñ Robertus C. nuper de VV. in com tuo statutum pred' minime ponderans machinans nos & coronæ nostræ exheredit, & cognitionem huiusmodi plitorum de transgressionibus, quæ ad nos & coronam nostram sic pertineant, ad illud examen extra regni nostrum predict' trahere, et predict' VV. ac alios de subditis nostris indebite pregrauare, & aduersus curiam Rom se diuertebat, & ibid' absque licentia nostra adhuc residet, atque quamplures processus, sententias & citationes versus ipsum N. ad ipsum VV. ac alios de subditis nostris p ext' reg. nostr' pdictum trahendum ad respondendum prefato predicto in dicta curia Rom extra regn' nost' Angl, de qui-

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quibusd' trāslgr' sibi (vt dic') illatis ac quāplura a nobis & coronæ nostre preiudicialia ibidem prosecutus fuit, eaq; per I. R. nuper de C. Genē apud VV. pronunciari, publicari, notificari, et exec' demandari fecit, et fieri procurauit in nostri cōtemptum et preiuditium, et exheredationis coronæ nostræ periculum manifestum, et ipsius w. dampnum non modicum et grauamen, ac contra vim, formam et effectum statuti prædicti. Nos statutum illud inuiolabilit obseruari, et illud impugnantes, iuxta eorum demerita, castigari volentes et puniri, Et quia prædicti VV. fecerit nos secūr de clam suo prof. per A. B. C. D. & F. tibi precipimus, quod per bonos et legales homines de balliuua tua Premunire facias prefat preposit, et I. R. procuratorem, manutentorem, faultorem, cōsiliarium, auxiliatorem, et abbettatorem ipsius prepositi in hac parte: quod tunc fint coram nobis a die Paschæ in xv. dies, vbiunque tunc fuerimus in Anglia ad respondendum tam nobis de contemptu et preiudicio prædicti, quam prefat w. de dampnis et iniurijs sibi in hac parte illatis. Et ad faciend' ulterius et recipiend', quod curia nostra considerauerit in premissis. Et habeas ibi nomina eorum per quos eos premunire facias, & hoc breue, Nos de die et loco, quibus dictam premunitionem sibi feceris, sub sigillo tuo distincte et aperte iunc certificans &c. Teste &c.

This writ lyeth where any prouisor such proces to the court of Rome against the presentee of the king or of any other patron, then the presentee of the king or other patron shal haue this writ whiche shall bee directed to the shirife: commaunding him to warne y prouisor, that he discouerbe not the presentee of

of the king or of any other person. And these prouysors, procurators & notaries shalbe attached by their bodies, and put in prison vntill such tyme that they haue made fine and raunsome to þ king, & greþ to the party. And after that they haue made raunsome, & greþ yet after that they be deliuered they shal find suerty that they shal not sue by themselfe ne by other in the court of Rome ne other places for such imprisonment & raunsome. And if those prouysors, attornies, executors, procurators, notaries may not bee founde then the exiȝt shalbe awardeþ against them and a wȝit shall go to take their bodies aswell at the suit of the party as of the king, and in the meane time the king shall haue the proffites of the sayde benefice so by such prouysors occupied, except abbasses, priouries, and other houses that hath Colledge or Couenant. And that is gauen by the statute de Anno 20. E. 3. in the myddest. Looke more of thys matter in the laste Chapter of the same yere. And also in the 27. yere of the same king.

Note ye, that a Quareimpedit brought by the king, and he declared that the defendant him disturbed by prouision sued to the court of Rome, and are at issue vpon that point, & founde for the king, yet the iudgement shall not be geuen according to the statute, nor the partie shall not haue the payne that is geuen by the statute, but it is great euidence in the other wȝit brought vpon the statute P.3. H.6.

Note

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Note yee, by the opinion of many, a man may haue this w^rit against one, as procurator against another as Councillor, & against the third attorney, & the damages shalbe taxed severally. A n 36. H. 6.

In this w^rit some made default, and some appeared: & for that, y^e the w^rit was naught it was abated, & no iudgement geuen against them that made default. And the statute is in curia Rom^{an} vel alibi, the whiche alibi is to entende in the Bishops court: for if a man bee sued there for a thing that belongeth to the common lawe, he shall haue a Præmunire M. 5. E. 3.

And note ye: that it hath bene the opinion of many, that if a Clerke sue another Clerk, or other man in the court of Rome, of a thing spirituall whiche he may haue remedy of that in his Ordinaries court within the Realme, that is within the statut, but I beleue that it is no law. If a lord in Court baron holde plee of dett of xl. s. 0z aboue whiche ought not to be demaunded but in the kings court, it is said that the lord shalbe in case of a Præmuni-
re. P. 9. E. 4.

¶ A writ de Quare ei deforc'.

R^EX yic' salutem. Prec' A, quod &c. redd^d B. vnum
mes, cum pertinⁱn N. quod clamat esse ius de
rationabili dote sua vel quod clamat esse ius ad
maritag. suum, vel quod clamat tenet sibi et hered' do
corpore suo exequi, vel quod clamat tenere ad ter
minum vite sue & quod idem A. ei deforc'. Et nisi
&c.

prædictas xx. li. inde leuauerit. Et ideo tibi præcipimus, quod omnia bona & catalla prædictæ C. præter boues & asfras de caruca sua, & similit medietatem terræ & tenemætorum suorum in balliuua tua eidem A. sine dilatione deliberari facias per rationabile prec' & extenç', tenend' ut libet teñc sibi & assignatis suis in forma prædicta, quousq; xx.li.de prædictis xl.li. inde leuauerit, & qualiter hoc præceptum nostrum fuerit executum scire fac' Iusticia nostris apud VV. in octab. &c. Et habeas ibi &c. Teste &c.

This w̄rit lyeth where a man hath recovered debt or damages in the kynges Court, and the summe of the debt or damages may not bee leuyed of the goodes and catalles of hym agaynst whom the debt or damages were recovered, then he that hath recovered shal haue this w̄rit directed to the Shirife, commaunding him that he make deliuerie of the halfe of all the landes or tenements, and all the goodes, except Open and beastes of his plough.

And note, that the halfe of the said lande shalbe reasonably extended, and he shal hold the said lande, and these other goodes vntyll the said summe be leuied of the said issues & profits of the lands and goodes of the debtor, and this w̄rit is retournable.

Note ye, that an Abbote recovered damages & prayed Elegit, and it was graunted.

Annuicie was recovered, and the playntife sued the Fieri facias, and the Shirife retourned that he hath nothing, and the playntife prayed Elegit, and his prayer was denied,

W. J.

foz

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for that, that he hath chosen Fieri facias. **D. 20**
E. 3. T. 10. E. 3.

And note ye, if a man without p[ro]le know-
ledge in court him to be holden in debt to pay
at a certaine day, the conise[re] shall not haue
this Elegit, for that, that the conisor[re] was not
brought into the court by proces of the law,
that is to say, by w[rit] of debt, and so the sta-
tute of West, 2. cap. 18. is to be understand.
D. 2. E. 3.

¶ A writ of Habere facias seisinam.

REx Vicec' salutem. Sciasquod cum A. in curia
nostra coram Iustic' &c. petierit versus N. vnum
mesuagium cum pertinentijs in P. postea veni in ea-
dem curia nostra & vocauit ad warratum R. qui qui-
dem R. prædict' mes. cum pertinentijs in curia nostra
&c. per defaltam amisit, secundum quod conside-
rat fuit in eadem curia, quod prædict' A. recuperar[
inde seisinam versus prædict' N. et prædictus N.
haberet de terri prædict' R. ad valēc' teñ &c. Et ideo
tibi præcipimus, quod eidem A. sine dilatione ple-
nam seisinam habere facias. Et prædict' N. de terri
prædict' R. ad valentiam eorundem tenementum cum
pertinentijs in loco competenti habere, & assignare
seisinam facias. Teste &c.

This w[rit] is Judicial and a w[rit] of Exe-
cution, and lyeth where landes and tene-
ments are recovered in the kinges Court, he
that hath recovered shal haue this w[rit] com-
maunding him to delyuer seisin, the w[rit] is
not retournable.

¶ A writ of Capias ad satisfaciendum.

Rex

REx Vic' salutem. Præcipimus tibi, quod non omittas propter aliquam libertatem &c. quin capias A. si inuentus fuerit in balliuua tua, & cum saluo &c. Ita quod habeas corpus eius coram Iusticia &c. tali die, ad satisfaciendum B. tam de xl.s. quos B. in cur' nostra recuperauit versus eum, quam de v.s. qui ei adiudicat fuerit pro dampnis suis que sustinuit occasione detentionis debiti prædict'. Et habeas ibi hoc breue. Teste &c.

This w^rit lyeth where a man recouereth debt or damages in the kinges court, and hee against whom the debt is recouered hath no lands nor tenements, nor sufficient goods wherof the debt may be leuied, then he that recouered shall haue this w^rit to the Shire, commaunding him that he take the bo^die of him against whom the debt is recouered, and he shalbe put in prison vntill satisfaction be made to him that recouered.

And note, that these fower w^rittes next afore, are w^rittes of execution.

¶ A writ of Capias vtlagatum.

REx Vic' salutem. Præcipi^t tibi quod non omittas propter aliquam libertatem in balliuua tua, quin capias R. vtlagatum in comitatu S. tali die & anno, ad sectam B. de placito transgress. prout &c. si inuentus fuerit, & saluo &c. Ita quod habeas corpus eius &c. tali die inde facturum & recepturum qd' curia nostra consider^r in hac parte &c.

¶ A writ de Capias Utlagatum, & inquisitions de bonis & catallis.

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PEx Vic' salutem. Præcipimus tibi quod non &c.
Aquin per sacramentum proborum & legalium
hominum in eodem comitatu tuo diligenter inqui-
ras, quæ bona et catalla, terri & tenementi A. de B.
habuit in balliuua tua, die & anno &c. vel vnquam
postea, quo die idem A. vtlagat fuit ad sectam R. E
pro compoto suo eidē R. D. redd' tempore quo fuit
receptor denariorum ipsius R. prout Vicec' noster
Eboracen Iusticiaꝝ nostris apud VV. in Octabis
sancte Trinitatis nūc proxim sequent mand', et illa
pereorum sacramentum extendi & appreciari fac',
iuxta verum valorem eorundem. Et ea quæ per in-
quisic' illam inuenieris in manum nostram capias et
saluō custodiri fac', et exten', & appreciatione illam
quam inde feceris scire fac' Iusticiarijs nostris apud
VVestm tali die distincte et aperte sub sigillo tuo,
& sigillis eorum per quorum sacramentum exten' et
appreciatione illam feceris. Ag pro eo quod idem A.
vtlagat vagat & discurrit in balliuua tua, in nostri et
Coronæ nostræ præiudicium vt accepimus, ideo præd'
A. vbiunque in balliuua tua, tam infra libertates
quam extra inueniri contigerit capias, et eum saluo
custodiri facias, ita quod eum habeas coram Iusti-
ciarijs nostris apud VV. ad præfatum terminum, ad
faciend' & recipiend' quod curia nostra de eo con-
sider in hac parte. Et habeas ibi hoc breue. Teste
&c.

This writ lyeth where a man hath scred a
writ of Exigent, and he against whom
the Exigent is awarded commeth not at the
day of the Exigent returned, then the plain-
tife shall hane the said writ directed to the
Shirife of the countie (where the Exigent
was awarded) to take the bodie of him that
is

is outlawed. And some say that a man may haue as many wrights as he wil, for that, that it is for the kinges aduantage.

A writ of Quid iuris clamat.

REx Vic^e salutem. Precipimus tibi quod distingas A. per omnia terras et catal^l &c. Et quod de exitibus &c. Et quod habeas corpus eius coram Iusticiarijs nostris apud VVestmⁿ tali die &c. ad cognoscend^l quid iuris clamat in uno mesuag. cum pertinentijs in B. quod I. de T. in curia nostra concessit R. per finem inter eos facit et ad audiend^l &c. Teste &c.

This writ lyeth where I graunt the reuersion of my tenant for terme of lyfe by fine levied in the kinges court, & the tenant will not attorne, he to whom the reuersion is graunted shall haue this writ to charge him to attorne.

And note if the tenaunt for terme of lyfe claime fee simple in the tenements, and it is found that he hath no fee simple, he shal recover seisin of the land. **E. 10. E. 3.**

And he that hath fee taile shal attorne as wel as he that hath but freehold per Mettingham, but I suppose þ law be contrarie. And the proces is **S**ummons & distres infinite.

Note ye, if land be lessed for terme of lyfe, and the lessour graunt that the lesse^r shal not be troubled for wa^rt, and after the reuersion is graunted to a man and his wife by fine, who bringeth a Quid iuris clamat, in this case if the lesse^r say that he is ready to attorne; sauing to him the bauntage of the deede, it is

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conuentent, that the husband and the wife
knowledge the deede, otherwise the lessee
shal not be compelled to attorne. C.45. E.3

In a Quid iuris clamat brought by an Inf-
ant, and such matter as afore is pleaded, the
infant may not knowledge the deede. D.44.
E. 3.

In a Quid iuris clamat the tenant said, that
the conisor helde the same land of the kinge
in chiefe, and demaunde iudgement without
shewing the kinges lycence, and then the
demaundant shewed the kinges lycence, or
otherwise the tenat should be charged with
a fine for that alienation, and then the tenant
attorned. D.45. E.3.

If the king graunt to me the seruice of his
tenant, I may auow without attornement,
for I may not haue a Per que seruitia, nor
Quid iuris clamat, by Shard M.12. E.3.

A writ of Per que seruitia.

R Ex Vic' salutem. Præc' tibi quod distingas A.
per omnes terras &c. Et quod de exitibus &c.
quod habeas &c. tali die, ad cognoscendum per que
seruitia tenet vnum mesuag. cum pertinentijs in B.
quod I. de T. in curia nostra concessit R. per finem
intereos fact. Et ad audiendum &c.

This writ lyeth where I graunt the ser-
vices of my tenant for terme of lyfe, te-
nant in taile, tenant in fee simple to a stran-
ger, by a fine leuyed in the kinges Court,
thys tenant will not attorne to the same
grauntee, then the grauntee shall haue thys
writ against the tenant and compell hym to
at-

attourne. And the proces is Summons and distres vntill the partie come.

Note ye: if the tenant holde of two in common, if the one graunt the seruices by fine the tenant shall not attourne. M.9. E.3.

The seruices of a tenant was graunted to the husband and the wife, and to the heires of the husband, and they brought a Per que seruitia, the tenant said that he hath acquitall of the cognisor, and sauing to him his acquitall he is ready to attorne, and the husband knowledged to him and to his heires, & so note ye, that the heire of the husbande ought to acquite the tenant after the death of the husbande in the life of the wife, for the wife may not binde her to the acquitall during the mariage. H.5. E.3.

¶ writ of Quem redditum reddit.

REx Vic' salutem. Precipimus tibi quod distingas B. per omnes terras &c. Et quod de exitibus &c. Et habeas corpus eius &c. tali die &c. ad cognoscend' quem reddit reddit, exeunt de uno mes. cum pertin in N. qd I. de F. in curia nostra &c. concessit R. S. per fineinde int' eos factum & ad audiend' &c. Et habeas &c. Teste &c.

This writ lyeth where a man graunteh to another by fine leuyed in the kynges Court a rent Hecke, or a rent charge goyng out of another mans lands, and the tenaunt of the land will not attorne to the grauntee, then the grauntee shall haue this writ against the tenaunt of the land to cause hym to attourne. And the proces is as in the

W.11ij

writ

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Writ next afore.

And note ye, that these ij. Writs are Judicial, and lyeth of fine levied in the Kinges Court.

In a Quem redditum reddit the defendant demaunded hearing of the deede of the graunt and the plaintiff shewed the fine surconisance de droit, & he was awardeed to shew also the deede, for he ought to shew title in this writ how the rent did begin. ¶. 30. ¶. 6.

And note ye, that in these thre writs next afore, it is no ples to say, that they were not tenaunts the day of the writ purchased, but ought to aunswere if they were tenaantes the day of the note levied, for these writs ought to be brought against him that was tenaunt the day of the fine levied. ¶. 8. ¶. 6.

¶ A writ of Venire facias.

REX VIC' salutem. PREC' tibi quod venire facias
coram Iusticiarijs nostris &c. tali die xij. tam
Milites quam alios liber & legales homines de vi-
cine de N. quorum quilibet habeat xl.s. terræ &
tenement vel redditum per annum ad minus, per
quos rei veritas melius sciri poterit, et qui nec A. nec
B. aliqua affinitat attingunt ad recognoscere super sacra-
mentum suum, si VV. consanguineus praedict' A.
cuius haeres ipse est, fuit seifitus in maner de R.
cum pertinentijs in dominico suo ut de feodo die
quo obiit. Et quod idem A. in curia nostra &c.
coram &c. clamat ut ius suu versus eum sicut idem
A. dic', vel non sicut praedict' B. dic'. Quia tam pra-
dict' B. quam praedict' A. inter quos inde contentio
est

est, posuer se in iuratam illam. Et habeas ibi nomina iurat et hoc breue. Teste &c.

This writ is Judiciall and goeth out of the Record, and lyeth where two parties pleadeth and commeth to issue. & vpon the saying of the countrey, then the party plaintife or the defendant shall haue this writ directed to the Shirife, that he cause to come xij. lawfull men of the same countrey to say the trueth vpon the said issue taken. And if the enquest come not at the day of this writ returned, then shall go an Habeas corpora, and after a distres vntill they come, & when they come at the day, and the defendant challenge many of them, because that they are not sufficient to passe vpon the saide issue, then the plaintife shall haue a writ that is called Octo tales, or Decem tales, or as many as is needfull.

Note ye, that in these cases following the enquest shalbe taken by default. In auowrie for rent seruice, the plaintife pleaded out of his fee &c. And vpon that they were at issue, and after the auowant made default, & the enquest was taken by his default, for that, that it was the second day after the enquest ioyned, but if it were the first day, then he shalbee distrayned to heare the Jurie. M. 20. E. 3.

Note ye, that in these cases following the Jurie shalbe taken by default.

In a writ of Annuitie the defendant sayd, that at the day of the making of the deede he was within age, and vpon that they were

at

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at issue, and at the day of the enquest the defendant made default, and the enquest taken by his default. H. 7. E. 3.

Note ye, that in these cases following, though that the defendant make default after the enquest ioyned, yet it shall not bee taken by default, but a distres shall go to heare the Jurie. H. 18. E. 3.

In a wast the defendant pleadeth to the enquest, at which day the defendant maketh default, a distres shalbe awardeed to heare the Jurie. An 12. E. 3. Lib. 11.

Note ye, by what challenge the array shalbe quashed, and by what not.

In Assise, the array shalbe challenged, for that, that the plaintiff was neare to the Bishop of D. and he that arrayed the panel is tenant to the Bishop, and by the Wyshops counsell tharay was made, and thys was holden to be no challenge, for that, that the Bishop was not partie to the yle, except that he had said that they were procured to say otherwise then trouth.

The array was quashed in assise, for that, that it was made by the Bailife that hath maryed the colin of the plaintiff, & that they haue issue. An 29. E. 3. Lib. 11.

In Assise, tharay was quashed, for that, that the Shirife hath baptised the sonne & heire of the plaintiff, and that was confessed by the Shirife. D. 4. E. 4.

It is a good challenge to tharay to say, that the Shirife is colin to the wife of the plaintiff.

In

In Aſſeſtharay ſhall not be quashed, for that, that the Shirife hath maried the ſister of the plaintife (except he ſay) and ſo the ray made in a fauourable manner . A. 16 .
C. 3 . Lib. AII .

¶ Note the cauſes of the challenge
for Consanguinitie .

A Jurour was challenged, for that, that he was colin to the wife of the defendant wherefore he was drawne out of the panel .
M. 3 . H. 6 .

If an Abbot bring an action, it is a good challenge to ſay, that the Jurour is uncle or brother to a Monke of the ſame place .
C. 3 8 . H. 6 .

¶ Note the cauſes of a Challenge
for the Affinitie .

A Jurour was challenged, for that, that he hath baptiſed the ſonne of the plaintife, and that was holden a principall challenge .
P. 19 . H. 6 .

A Jurour was challenged for that, that the ſonne of the Jurour hath maried the daughter of the plaintife, and that is no principal challenge, except it be betwixt the partyes ſelues, that the Juroz maried the ſc . wherefore theſe triours enquyred of the fauour .
M. 3 . H. 4 .

In Attaint, one of the xith . was challenged, for that, that he hath maried the ſister of one of the petit Juroz wyes, and it was not allowed .

¶ Note

Natura

¶ Note the causes of a Challenge for insufficiencie.

In a Repleuin, the defendant challenged a Jurour, for that, that he was not sufficient of the freeholde, that is to say, the value of xl.s. And by the opinion of the Court, that was a good challenge, for that . that the auowrie was for service, but if the auowrie had bene made for damage fesant, otherwyse had bene. C.4. N.7.

In Dette of xx.li. and damages to x.li. a Juror was challenged, for that, that he may not dispende xl.s. and for that cause he was treat by the Statute. C.3. C.4.

¶ Note the causes of the challenge for the Hundred.

If a Jurour be challenged for that, that he hath nothing wythin the Hundred by the plaintife, and also by the defendant, he shalbe drafwen out. N.12. C.3.

If a Jurour be challenged, for that, that he hath nothing wythin the hundred, the triors shall not enquire if he be dwellyng wythin the hundred, if he haue any thyng wythin the hundred, and not of the value. N.19. C.2.

In a wort of Annuitie against a Parson of a Church by prescription, and alleaged seysine in the same County, where the Church is in another hundred: the thirde Jurour was challenged, for that, that he hath nothing wythin the hundred where the church is, for if he haue nothing in the one hundredeth

or the other he shalbe sworne. T. 11. R. 2.

Note ye if one be sworne that hath sufficient in the hundred and after he sel that , and after he is challenged for insufficiency within the hundred, this challenge is not allowa- ble: for that when he was admitted and sworne at one time it shall be intended that he hath knowledge of the matter now, & his knowledge by his alienation may not be de- uested out of his parson. H. 22. H. 6.

And note ye: þ after that fower are sworne of the hundred, a man shall haue no challenge to say that he hath nothing within the hun- dred. C. 7. H. 4. M. 29. H. 6.

And note yee , that after that a man hath challenged the array and that found against him hee may challenge the polles . M. 12. C. 3.

Note ye : þ when the Jurors are sworne, the parties pray that they may haue keepers, that was denied sitting the court , but after they shall haue. D. 7. C. 3.

In attaint after that fower of the hun- dred were sworne, another was challenged for the hundred, and not allowed, yet it was alledged that in the petit Jury that first passed, ought to be iij. of the hundred at the least, and by the same reason. viij. ought to be of the hundred where 24. are sworne if he that challenged the raze will challenge the the polles he shal shew the cause of the chal- lenge every time certaine afoze that þ clerke peruse the panel. T. 7. H. 4.

A Jurour was challenged for fauor and
he

Natura

he was found by tryours, that he was in-
different, and afore that he was sworne he
was challenged, for that, that he hath no-
thing within the hundred, & not allowed.

¶ A writ of Nisi prius.

REx Vic' salutem. Præcipimus tibi quod venire
facias apud VVestm tali die, vel coram Iusticia-
rijs nostris ad primas assisas in comitatu tuo capi-
end' assigñ per formam statuti inde prouis. nisi die
Lune &c. apud B. prius veñ xxiiij. tam Milit &c.
quam &c. vt in priori breui &c. et qui nec A. nec B.
&c. ad recogn &c. Si prædict' B. tali die & anno,
vi & armis, videlicet, gladijs &c. bona et catalla sua
iiij. saccas lanç de valenc xx. Marcar apud H. in
comitatu tuo, cepit & abduxit, vt dic', quia tam &c.
Et habeas &c. Teste &c.

This writte is iudicall and lyeth in case
when thenquest is paneld and returned a-
fore the Justices of the banke, then the one
partie or the other may haue this wryt for
easement of the Countrey, directed to the
Shirife, commaunding him that hee cause
the men that are impanelled to come afore
the Justices in the same Countie, and there
to be determined afore them selfe, if the mat-
ter be not so difficult that it may not be tried
afore them, for then it shalbe sent into the
banke, as afore.

And note ye, by the statut of E. 3. Ann. 14.
cap. 15. that this writ shalbe graunted as-
well at the suit of the tenant, as at the suit
of the demaundant in a writ of Trespas, if
the dammages passe xl.s.

¶ And

And note ye, that the Justices of the common bank hath power to enquire by the Fieri facias of pleas moued in the kinges Court. And if the Justices of the common banke may not come, then in the same maner haue the Justices of the kinges bench power to take the Nisi prius of pleas moued in the common banke.

In Detinue, the plaintif and the garnishere were at issue, and the plaintife prayed a Nisi prius, and had, & the garnishere had other with a Prouiso. H. 19. H. 6.

Note where a man is in execution vpon a Statute Marchant, and sueth an Audita querela and are at issue, a Nisi prius shall not bee graunted, for that, that the plaintife may not be delyuuered out of prison. P. 15. E. 3. C. 21. E. 2.

In all cases where the king is partie, the Nisi prius shal not be graunted. H. 15. E. 3.

¶ A writ of Quale ius.

REX VIC' salutem. Scias quod Abbas de N. in curia nostra recuperauit seisinam suam versus B. de uno mesuagio cum pertinentijs in C. vt ius Ecclesiae suae Sanctae Mariæ de N. per defaltam ipsius B. per breue nostrum quare cessauit. Et quia dubitamus de fraude inter eos prælocuta, contra statutum nostrum in quo continetur de terris seu tenementis ad manum mortuam deueni quoquo mod. Tibi præcipimus, quod venire facias coram nobis tali die &c. xij. &c. de vicinet præd' quorum quilibet &c. per quos &c. et qui nec &c. ad recognoscere sacra-

Natura

sacramentum suum, quale ius idem Abbas habet in prædicto mesuag. & quis prædecessorum suorum fuit inde seisisus de dominico seruic' de prædicto mes. exeunt', vt de iure ecclesiæ sue prædicto, et quantum prædictum mesuagium valet per annum, secundum verum valorem eiusdem. Et interim mesuag. illud in manum nostram capias, Ita quod neuter eorum ad illud manum apponat, donec aliud a nobis inde habueris præceptum. Et quod de exitibus eiusdem mesuag. ad Scaccarium nostrum respondeas. Et scire facias capitali domino feodi illius mediae & immediae, quod tunc sit ibi auditur iuratam illam si voluerit. Et habeas ibi nomina eorum &c. Teste &c.

This writte is indicall and lyeth in case where an Abbot or Prior or any other man of Religion bringeth a Præcipe quod redat of lande, and the tenaunt maketh default after default, whereby the land is to be lost, then the same Abbot or Prior that hath recovered shall not haue execution of the sayd lande recovered, afore that he sue thys wryt for the king to the Escheatour of the same Countie, to enquire what right he that hath recovered hath, and if he hath right by hys wryt, then the iudgement shalbe geuen for hys him, and shall haue execution of the land recovered, and if it be found that he hath no right by his wryt, but the landes were lost by collusion betwixt hym and the tenaunt, then it shalbe ordred as is geuen by the statute of Westm 2. cap. 3 2. which begynneth. Cum viri religiosi &c. that the next Lord shall haue the land as his escheate, if he demaunde it

it within the yere after the inquisition take. And if he demaunde it not within the yere, then the next Lord after him shall haue the sayde land, if he demaunde it within the half yere. And if no Lord demaunde nor clayme as afore is sayd, then the king that is chiefe lord aboue all other shal haue the sayd lande so recouered.

In a Quare impedit brought by one R. against an abbot, and they were at issue and now thenquest come, and R. was nonsuite, and the court awarded a writ to the Wyshop for the Abbot without inquirie of the conclusion. C. 19. E. 3.

¶ A writ de Cape magnum.

Ex vic' salutem. Cape in man' nostram per visum legal' hominum de com' tuo vnum mes, cum pertinet in N. quod B. tenuit x. die April' Añ &c. ad quorumcunque manus deuenit in ball' tua quod A. que fuit vxor C. in cur' nostra cor' &c. clamat ut dotem versus prædict' B. pro defectu ipsius B. & ideo &c. Et sum' &c. prædict' B. quod sit &c. tali die respons. et ostens. quare non fuit cor' &c. tal' die quod prædict' B. non habet aliquas terras seu ten' in balliuua tua q̄ capi possunt in man' nostram ut testatum est in ead' curia quod prædict' B. tali die et Añ &c. tenuit prædict' mes. cum pertineñ vnde prædict' mes. capi pot' in manum nostram. Et habeas ibi nomina eorum per quorum visum hoc feceris sum'. Et hoc breue Teste &c.

This writ is iudicall, and lyeth where a man hath brought a Precepe quod reddat of a thing that toucheth pleye of lande, and the X. i. tenant

Natura

tenant make default at the day to him geuen
in the writ original, then this writ shall go
for the king to take the land into the kinges
hand, and if he come not at the day geuen by
the graund Cape he hath lost his lande. But
note ye: that at the first day he may be essey-
ned. And if at the day of the graunde Cape
retornable he commeth, he may excuse his de-
fault, as to say, that he was not somoned af-
ter the law of the land, & that he is ready to
make his law, or to say that he was in pri-
son, or disturbed by water, & in these two last
cases, issue may be taken vpon auerment of
the country, & for that, the iudgement and
knowledge of the imprisonment or disturbance
by the water is to be tryed by the countrey,
But the first case shalbe tryed, as aforesayd.

In a P̄c redd brought against one H. filius
W. in latin, at the graud Cape the tenant said
that where the writ was brought against H
sonne of W. our father hath to name Edmōd,
iudgement of the writ, & it was said that the
tenant hath made default in whose mouthe
no pleie lyeth aforesayd that he hath sauied his de-
fault but it was awarded that vpon a graund
Cape the tenant shal plede that he is misna-
med in abatemēt of the writ aforesayd the default
saued and that is for the mischief of the war-
rant.

A writ of Cape paruum.

Ex vic' salutem. Cape in manum nostram vnum
imes. &c. quod R. in curia nostri &c, clamat vt ius
suum

suum versus A. pro defectu ipsius A. Et sum per bonos sum prædict A. quod fit &c. tali die &c. ad audiendum inde iudic'. Et habeas &c. Teste &c.

This writ lieth in case where the tenat is summoned in plee of land and commeth at the Somons and his appearance is of record, and after he maketh default at the day that is geuen to him then shall go this writ for the king. And note ye that a petit Cape lyeth after appearance and a graund Cape afore appearance.

Note ye: that in a graund Cape the tenat is somoned to aunswere to the default & ouer to the demaundant. But in a petit Cape the tenant shal be somoned in aunswere to the default onely, and it is called a petit Cape: for that, that there is lesse in this writ then in the graund Cape. **C. 8. H. 6.**

In a Precipe quod reddat brought by a woman, at the petit Cape retourned the tenant sayd that after the last contynuance the demaundant hath taken a husband iudgement of the writ and it was adiudged, that that was no plee afore that he hath sauied his default. **C. 39. E. 3.**

In a Formedon the tenaunt appeared upon the petit Cape, and would haue pleded that the demaundant hath entred after y last continuance without sauing his default, but he might not, and after he pleaded a release of al the right. **M. 40. E. 3.**

¶A writ of Cape ad valentiam

X. H.

Rex

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REx Vic' salutem, Cape in manum nostram per
visum legal' hominum de com' tuo de terris A.
pro defectu ipsius A. ad valentiam vnius mes. cum
pertinet in I. quod E. in cur' nost' coram iustic' nostris
clamat ut ius suum versus R. vnde idem R. in ea-
dem curia nostra coram Iusticiarijs nostris voca-
uit predict' A. ad warrantizandum versus eum &
diem captionis Scire facias Iustic' nostris apud w.
pliteras tuas sigillatas. Et sum &c. predict' A. quod
fit coram &c. tali die respons. et ostens. quare non
obseruauit diem sibi datum per effonum suum co-
ram iusticiarijs nostris tali die. Et habeas ibi nomina
eorum per quorum visum hoc feceris &c. teste &c.

This w'rit lyeth where I am impleaded of
certaine landes, and I bouch to warrant
another against whom the Somons ad warrantizandum
hath bene awarded and the Sherife
hath retourned that he was summoned and
commeth not at the day geuen, then if the
demaundant recouer against me, I shal haue
this w'rit against the bouchee, and I shall
recouer so much in value of þ land of þ bouch
if he hath so much, and if that he haue not so-
much, then I shall haue execution of such
landes, and tenements that descendeth to him
in fee simple or if he purchase after, I shall
haue against him a resomons. And if he can
nothing saye, I shall recouer to the value.
And note yee that this w'rit lyeth afore ap-
parance. And in the same maner lyeth the
petit Cape ad valentiam alter appearance.

q A writ of Sum ad warrantizandum.

Rex

REx vic. sal. Sum per bonos sum A. quod sit &c. tali die ad warf w. vnum mes. cum pertin in N. quod B. coram iustic. nostris apud w. clamat vt ius suum versus eum. Et vnde I. de w. in eadem cura nostra vocavit præd. A. ad warf versus eum &c. Et habeas ibi sum. Et hoc breue teste &c.

This w^rit lieth wher^e I bouch^e to warrant another man, then. I shall haue this w^rit against him to the sherife commaunding him that he summon the bouchee to be afore the Justices at a certaine day at whiche day if he come not, then shall goe the graund cape, and if he come and after make default then shall goe the petit cape, as is aforesaid.

¶ A writ of Sequac^e sub suo periculo.

REx Vic' salutem. Sum per bonos sum E. quod sit coram Iustic' nostris &c. tali die ad warf A. vñ mes. cum pertin in M. quod R. coram Iustic' nostris apud w. clamat vt ius suum versus eum &c. Teste &c.

This w^rit lieth wher^e a Homons ad warrantandum is awarde^d. And the sherife returnes that he hath nothing whereby he may be sommoned, then shall goe sicut alias et pluries. And if he come not at the Pluries, then then shall go this w^rit De sequatur sub suo periculo.

¶ A writ of Champartie.

REx Vic' salutem. Præcip^t tibi quod dist^r A. per Romnes terras &c. Et quod habeas corpus eius coram Iustic' &c. ad respond' quare cum inter certos articulos quos dominus E. nuper rex Angl auus X.ij. noster

Natura

nř ad emendac' status populi sui concessit, ordinat
sit quod nullus minister nř nec aliquis alius pro part
rei que est in placito habend' negotia que sunt in
placito sibi assumat manutenenda, nec aliquis ius
suum sub huius conditione alteri dimittat, ac præ-
dictus R. placitum loquela que est in curia nostra
&c. inter A. et E. vxorem eius petentes et A. et VV.
tenentes de xx. acr terř cum pertin in S. pro parte
huius ēr habend. A. assumpsit manutenend' contra
formam ordinationis prædict, vltierius facturi et re-
cepturi quod cuř considerauerit in hac parte.

Originale inde est tiel.

REx Iustic' suis de banco sal. Cum inter ceteros
articulos quos dominus E. quondam rex Angl
progenitor nř ad emend' status pli sui &c. qz nul-
lus minister eius nec aliquis alius pro parte rei que
est in plito habed' &c. vt prius: ac L. plitū loqle q est
coř vobis p bře nřm in ē A. petent et B tenent de vno
mes. cū pti in N. propē pē huius. mes. habend' iā as-
sumpsit manutenend' contra formam ordinationis
prædictæ vt accepimus: nos volentes ordinationem
illam obseruari, vobis mandamus quod inspect te-
noř ordinationis prædict' vltierius inde faciat quod
de iure et scđm formam ordinationis prædict' fuerit
faciendum &c. Teste &c.

This writ lyeth where two parties are
impleading, & the one of the parties geue
to a straunger the halfe, or part of the lande
or any other thing that is in plez for defen-
ding him against the partie, then the partie
græued shall haue this writ against a straun-
ger.

Note yee, that it is no diuersitie whether
the partie sell the lande hanging the writt
and

and where he g̃eueth the land, for that, that it is prohibited by the lawe. But a man may make a feoffement to his use hanging the w̃rit M. 8. E. 3.

The father and sonne are, and the father is impleaded, & hanging the suit he infesteth his sonne, this is no Champerty: for by eury law it is intended that the sonne ought to ayde his father: looke the statute De articulis super Cartas cap. 12. E. 6. E. 3.

Note ye, that it is said, that if a man sell his land to me, and after the land is demaunded against him by w̃rit, and he hanging the w̃rit make liuery and leiso to me of the same laude that is no Champertie for that, that the bargain was not made for such cause M. 29. R. 2.

In det it was awarded &c. that if I bring a w̃rit of Formedon against one R. in in the name of one B. if I recover with my owne costes and then B. me enfeoffe: this is Champerty &c. But if I. refuse to take the feoffement for doubt of Champerty, & commaunde B. to make a feoffement to another: that is no Champerty &c. quare. M. 42. E. 3.

Finis.

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